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THE TEN YEARS' CONFLICT.

THEOLOGICAL SEMINARY

THE

TEN YEARS' CONFLICT:

BEING THE

HISTORY OF THE DISRUPTION

OF

THE CHURCH OF SCOTLAND.

BY

ROBERT BUCHANAN, D.D.

IN TWO VOLUMES.

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THE SKILLE

THE

TEN YEARS' CONFLICT.

CHAP. IX.

THE COLLISION.

The conflict thickens.

INDICATIONS had now begun to multiply of a deepening and widening conflict. Even before the court of session's judgment in the Auchterarder case had been yet pronounced, the spirit which gave it birth, and those views of the civil courts' pre-eminence which were developed in its progress, were already at work in other quarters, preparing materials for new disorders and still more harassing divisions. When the very foundations of authority come to be called in question, it is the sure token that a formidable struggle is at hand. The idea having once gained currency and countenance that ecclesiastical decisions were no longer to be held as final and conclusive, even upon such questions as the admission of ministers to their spiritual office and cure, it needed no unusual sagacity to foresee the consequences that must needs arise. Licentiates of a secular spirit—men who were seeking the priest's office for a piece of bread—were too likely to take advantage of the facility thus afforded them of

The pernicious consequences likely to result from unsettling ecclesiastical authority.

CHAP. IX.

gaining a position which otherwise they could never hope to reach. As there were, moreover, already in the ministry not a few to whom the evangelical and reforming character of that career on which the church had now embarked was altogether distasteful,—to whom the stricter discipline, the more living and active piety, the increased seriousness and spirituality of this new æra, were a source of continual uneasiness and alarm,—it was a thing to be counted on, that in the progress of such a controversy as had now arisen, a collision with those internally discordant elements should, sooner or later, take place. Men whose whole habits, as well as theology, belonged to the dark and dead school of the preceding century, were too ill at ease under the ascendency of principles so diverse from their own not to take advantage of the first favourable opportunity to betray their discontent. The ground of these observations will begin ere long to appear.

Licentiates and ministers of a secular spirit encouraged to rebel against an evangelical and reforming Church.

At the assembly of 1838, two cases were brought up for review which were destined to occupy a prominent place in the struggles of the church, and to illustrate with peculiar force and clearness the great cardinal principles which were now at stake. These were the cases of Lethendy, in the presbytery of Dunkeld, and of Marnoch, in the presbytery of Strathbogie. Instead of taking them up, however, at this early stage of their progress, it will be more convenient to defer the account of them till it can be given in a more complete and continuous form. It will serve to keep the narrative more unincumbered and intelligible to go on at present, tracing out to its issue the fundamental case of Auch-

Cases of Lethendy and Marnoch: the consideration of them postponed.

terarder, and describing the consequent proceedings of the general assembly. CHAP. IX.

The Auchterarder case in the House of Lords.

The appeal was brought on in the house of lords, by a special order of the house, on the 18th of March, 1839. Counsel being called, there appeared for the church, Sir Frederick Pollock, Mr. Pemberton, and Mr. Bell; for Lord Kinnoull and Mr. Young, the attorney-general Sir John (now lord) Campbell, Mr. Knight Bruce, and Mr. Whigham. The pleadings, which occupied five days, having been closed, judgment was delayed till the 2d of May. On that day Lords Brougham and Cottenham delivered their judicial opinions. That of Lord Brougham was given in the shape of an extempore address, which, partly, no doubt, from this cause, and partly from the discursive character of that eminent and learned person's intellect, appears, from the report of it which has been preserved, to have been of a somewhat rambling kind. Lord Cottenham delivered his sentiments in writing, and with all the wonted calmness and gravity of an English judge. The first thing in Lord Brougham's address that must strike the reader, is the facility with which he gets at his conclusion. Alluding to the "great divisions" which appeared on this case in the court below, "it does so happen," observes his lordship, "that I have been, with the utmost diligence, seeking for difficulties and found them not,—that I have been, with all the power which I could bring to bear upon the investigation, wholly unable, and am to this hour unable, to discover wherein the very great difficulty consists." He signified, moreover, that Lord Cottenham was in this

Character of Lord Brougham's judicial speech.

Lord Brougham can find no difficulties in the case.

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Neither he nor Lord Cottenham can understand what it was that perplexed the Court of Session.

respect, entirely at one with him. "We entertain," said he, "as little hesitation in our judgment, the one as the other, being both of us unable to account for the question of law now at issue having been made the subject of such a long and pertinacious discussion."* That men of such capacity and legal knowledge as Lords Glenlee, Jeffrey, Moncrieff, &c., should have had absolutely nothing, in the law of the case, to afford any ground, or colour even, for the strong and decided opinions they had been led to form upon the subject, appears to be a somewhat startling assumption. The surprise, however, which it produces, vanishes at once on examining the view of the case on which Lords Brougham and Cottenham proceeded. Grant their premises and there could be no difficulty in coming to their conclusion. The theory on which their judgment turned involved these two positions,—*First*, The church is, by statute, the judge of qualification in the case of every presentee to a parish, but qualification is a technical term, including under it nothing but doctrine, literature, and life; and excepting therefore for heresy, ignorance or immorality, the church cannot legally reject a patron's presentee. And *second*, the presbytery is in the same position as a bishop in the church of England, and the civil court has the same jurisdiction in the case of the one as in the case of the other. The former of these two positions is fatal, of course, to the legality, not merely of the act of assembly 1834, but of the principle involved in the motion made by Dr. Cook both in

The two positions which their lordships lay down, and which sufficiently account for their having no difficulties.

* Robertson's Report, pp. 2, 3.

1833 and 1834—that it was competent to the people, at the moderation of the call, to give in "objections of *whatever nature* against the presentee, or against his settlement,"—while the latter of the positions in question carries the civil court triumphantly over all the defences of the jurisdiction of the church of Scotland. Speaking to the point of *qualification*, Lord Brougham observes, "I am somewhat surprised to find, in the very able and learned arguments from the bench below, an attempt made to show that qualification is of such extensive meaning that within its scope may be brought the whole of the matter at present in dispute, namely —the acceptableness and reception of the party presented by the congregation, as finding favour in their sight. * * * A man, say they, may be of such rude and stern manners, he may be so disagreeable in his habits of life, or he may be so much above his flock in his manners, and so entirely disqualified for associating with them, that they will receive no edification from his ministrations. My lords, if it amount to anything affecting his morals, his life, and conversation, that comes no doubt within the meaning of qualified. * * * The word qualified," continued his lordship, is not "used in its general sense,—as you talk of a man's qualities, of his capacity, of his abilities, of his merits,—which are all general phrases, and none of them technically defined. The word '*qualified*' is as much a known word of the law, and has as much a technical sense imposed upon it by the statutes, by the law authorities, by the opinions of commentators, by the dicta of judges, as the word qualification has when used to express the

Qualification is a purely technical term, of very restricted meaning.

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Literature, life, and morals, are all that qualification includes.

right to kill game, or when used to express a right to vote in the election of a member of parliament. * * * It means a qualification in literature, life, and morals,—to be judged of by the presbytery."*

On this important point Lord Cottenham is not less clear. When "the act of 1567, c. 7, ordained," says his lordship, "that the examination and admission of ministers should be in the power of the kirk then publicly professed within the realm, the presentation of lay patronage always reserved to the just and ancient patrons; and directed that the patron should present one *qualified* person within six months, otherwise that the kirk should have power to dispose the same to one qualified person for the time,—it is clear that the presentation so secured to the lay patron was to be subject *only* to the trial and examination of the church as to the qualification of the presentee,—that is, as to his *literature, life, and manners:* and that the appeal given by that act to the patron against the refusal of the superintendent to receive and admit the presentee, applied only to what had been before the subject of trial and examination, that is—his qualification as to literature, life, and manners."†

Lord Cottenham takes the same view of qualification.

The power of "examination and admission" of ministers, ratified by this statute, is declared to belong to the church then "publicly professed within the realm." Beyond all question it was a part of the public profession of that church, at the time when this statute was adopted, that no pastor be intruded on any congregation contrary to their will. The state

The answer to this assumption.

* Robertson's Report, pp. 14, 15, 17. † Ibid, p. 46.

could not expect, when it recognized the right of examination and admission as being exclusively within the power of the church, that the church was to trample upon its own avowed principles relating to that subject. There is nothing whatever about life, literature, and manners, in the statute. The law makes no such limitation of the church's power. It finds a church publicly professed within the realm. It takes it as it is,—and says nothing more than this—'the examination and admission of ministers belong to you.' Lord Cottenham never looks at this argument. But setting out with an assumption, that "qualified," has the restricted and technical signification stated above, he carries it along with him to the end. It follows from this view, as matter of course, that the call has no legal foundation whatever. Not contented with denying to the call any legal competency or force, Lord Brougham, the *quondam* champion of popular rights, treats this popular privilege of Scottish congregations with contempt and scorn. "I will take," says his lordship, "an analogous instance. Mr. Attorney-general very properly alluded to the coronation. It is a decent and convenient solemnity, to present the sovereign to the people, and the people are supposed to take part in the choice,—a part, however, so immaterial, that if they were all with one voice to reject, the coronation would be just as good, would go on exactly in the same way, and the rejection or recalcitration of the assembled people would have no more weight than the recalcitration of the champion's horse in Westminster hall during the festival attending the great solemnity. It is an obsolete right which has

No such definition of qualification in the statutes.

The call annihilated by this definition, and turned by Lord Brougham into ridicule.

CHAP. IX. not, within the time of known history, ever been exercised by any people." And was this "an analogous instance!" Had the call "not within the time of known history, ever been exercised by any" parish in Scotland! Was the *hereditary* succession to the crown "analogous" to a presentee's title to ordination and a cure of souls? Would a dissent *from the nation* against the accession of a particular individual to the crown, equal in point of extent and earnestness to the dissent *from the parish* against the settlement of Mr. Young, be of no more effect than the kicking of the champion's horse when he is backed out of Westminster hall! His lordship, in his judicial oration, in evident allusion to Lord Jeffrey, thought fit to say, that he knew "his subtlety to be unbounded," and "the fertility of his imagination in dealing with questions, to have no limits." The world, it is believed, has already formed a pretty confident opinion, as to whether of these two distinguished personages it is, who, in his judicial proceedings, has dealt less in "subtlety, ingenuity, and fancy," and more in logic and law. But if in his "analogous instance" of the coronation, Lord Brougham's legal accuracy and precision of thought were considerably at fault, his imagination had full scope: and mounting as it did upon the "recalcitrating horse" of the champion, it furnished him with the opportunity of having a fling at those popular rights which his boasted ancestor Principal Robertson had been at so much pains to tread in the dust. Lords Brougham and Cottenham, proceeding according to that view of the law, which they had thus laid down, regarding the restricted import of the term,

Lord Brougham's remarks on Lord Jeffrey.

"qualified minister," and as to the consequent legal nullity of the call,—it is easy enough to see how they should have encountered, in the consideration of the point of law, none of those difficulties which embarrassed so many of the judges of the court of session. They were clear, accordingly, that the rejection of Mr. Young was illegal.

Easy to understand how their lordships should have found no difficulty in declaring the rejection of Mr. Young illegal.

As to the other question of the civil courts' competency to pronounce upon the illegality of the proceedings of the church courts, and to assume the right of prescribing to them their duty in the settlement of ministers: Lord Brougham seemed to think any argument upon the subject altogether unnecessary. His theory carries him to his conclusion at once; he takes for granted that when any proceeding of the church court, however strictly ecclesiastical in its own nature, or to whatever extent matters spiritual may be involved in it, *affects* a civil right,—that proceeding, in its whole extent, falls under the cognizance and control of the courts of law. "The church courts," he says, "are excluded, they are barred and shut out from any cognizance of civil patrimonial rights, and not only of civil patrimonial rights directly, but of *those things which indirectly affect civil patrimonial rights.*"!* Dealing with this question of jurisdiction, his lordship proceeds in this confident strain: "It only now remains that I should say something respecting the question of jurisdiction, but I have no doubt whatever upon that. It is asked, 'How can the court of session interfere in a matter of ecclesiastical cognizance?' Prove to me, your minor, that this is a mat-

The question of jurisdiction: Lord Brougham thinks their right to dictate to the Church courts is self-evident.

* Robertson's Report, p. 32.

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Puts the jurisdiction of the Church of Scotland on the same footing with that of the Church of England.

ter of ecclesiastical cognizance, by which I mean of *exclusive* ecclesiastical cognizance. Prove to me that this is a question of qualification, like the question of *sufficiens* or *minus sufficiens in literatura*, and then I say that the court of session will be excluded: just as the court of queen's bench was in Specot's case upon a *quare impedit*, but which court did not deem itself to be excluded (and the Common bench agreed with them) where the return to the *quare impedit* by the bishop was *non idoneus*. They would not have been excluded, even if the bishop had said *schismaticus inveteratus*, much less if he had merely said *nolo inducere*, as the presbytery has here done."

Makes the case worse for the Church of Scotland than even for the Church of England, in regard to which, civil supremacy in matters spiritual is the law of the land.

It has been always understood that this right of the civil court to compel a bishop to induct applies only to the case of a clerk, that is, to a person already in holy orders,—and that even under the royal supremacy in matters spiritual, which is the law of England, the bishop cannot be compelled, by any civil court in the realm, to grant ordination to a layman, or even to one possessing the inferior orders of a deacon. And yet Lord Brougham has no hesitation in laying down the position that in Scotland, where the crown, and consequently its courts, are by law declared to have no jurisdiction in matters spiritual, a presbytery may be compelled to perform an act of which ordination is a necessary and essential part! His lordship does not think it needful to bestow any reasoning upon the point; he employs neither argument nor evidence to support his opinion, it grows out of his theory, it belongs to the very essence of his conception of the relations of church and state. "It is said," his lord-

ship observes, "you have no means of carrying into effect the decree of the court of session, albeit supported by the authority of the house of lords, which is a decision of parliament by its judicial character upon the subject. In other words, although you say the presbytery have acted wrong, although you say that their reason for rejecting is of no avail whatever, although you say the law is contrary to what you have supposed it to be, and although you say, deciding upon the petitory part as well as the declaratory part of the summons (which however you are not called upon to do), let the presbytery induct immediately, for it has no grounds for refusing,—still it is affirmed that the presbytery may persist in refusing, and must prevail.

Lord Brougham holds the Church courts as much bound to obey the decree of the civil courts, as the Court of Session is bound to obey the decree of the House of Lords.

"My lords, it is indecent to suppose any such case. You might as well suppose that doctors' commons would refuse to attend to a prohibition from the court of queen's bench,—you might as well suppose that the court of session, when you remit a cause with orders to alter the judgment, would refuse to alter it. Conflict of laws and of courts is by no means unknown here. We have unfortunately, upon the question of marriage, had a conflict dividing the courts of the two countries for upwards of twenty-five years, in which the court of session have held one law, and in which your lordships, and all our English judges, have held another law. The court of session in Scotland has held, and still holds, two persons to be married, whom your lordships hold not to be married. But has the court of session ever yet, when a case, which had been adjudicated by them according to their view of the law, has the court of session ever then continued the conflict, which would

CHAP. IX. then have become not a conflict of law but a conflict of persons—a conflict of courts—in which the weaker undoubtedly would have gone to the wall? The court of session never thought for one moment of refusing to obey your orders upon this matter, whereupon they entertained an opinion conflicting with your own. *For this reason alone*, and it is enough, I have no doubt whatever that the presbytery, when your judgment is given, declaring their law to be wrong—declaring the patron's right to have been valid,—will even upon the declaratory part of the judgment, do that which is right.''*

According to these views, the Church has no intrinsic and exclusive jurisdiction whatever.

According to this statement, the courts of the church of Scotland stand to the courts of civil law, in the same relative position that a subordinate civil court stands to a supreme civil court. The idea of a distinct province as belonging to the church, and of a jurisdiction intrinsic and exclusive within that province, is entirely set aside. With Lord Brougham the question of church jurisdiction is not one of less or more. He denies the existence of an independent jurisdiction as belonging to the church at all. He treats it as an "indecency," even to suppose that the courts of the church of Scotland would ever dream of refusing to obey *any* sentence which the supreme civil court might think fit to pronounce; as indecent as to suppose that the court of session would refuse to bow to the judgment of the house of lords. Lord Brougham, at the same time that he is so unhesitating in his view of the civil court's super-eminent jurisdiction, is

* Robertson's Report, pp. 38, 39.

obliged to admit it to be true, of all preceding decisions upon cases carried before the courts of law, from the judicatories of the church, that they were "*not* fruitful of instruction for the present question;" that "no one of them is to be found which disposes of it and governs it;" and that in "no one to which they relate, has the present question ever been raised."* Lord Cottenham recites all the leading cases which had occurred in the course of last century, one after another, but is not able to adduce a single case in which the civil court had ever meddled with the ordination or induction of a minister, or had ever gone one step farther than to determine the exclusively civil questions,—Whose was the right of patronage? or whose was the right to the stipend? And yet Lord Cottenham comes to the same conclusion with Lord Brougham, stated, no doubt, in more guarded and respectful language, but still in language which bears the same meaning,—that the civil court's jurisdiction, even in a matter which involves the spiritual act of ordination, is supreme and must be obeyed. "If your lordships," said the chancellor, "shall concur in the opinions I have expressed, and by your decision, inform the clergy of Scotland what the law really is, I cannot doubt but they will, by their conduct and example, inculcate the sacred principle of *obedience to the law*, of respect for the rights and interests of others, and of the sacrifice of private feelings to the performance of public duty."†

Obliged to confess that there are no precedents.

Lord Cottenham is equally at a loss for a precedent, but nevertheless asserts the civil court's right of interference.

Guided by the views and principles now explained,

* Robertson's Report, p. 19. † Ibid, p. 64.

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The decision of the Court of Session affirmed.

their lordships, without any hesitation, affirmed the judgment of the court of session. This was a grave event for the church. In itself, it is true, the decision went, and could go, no further than the decision of the court below. It settled the point that the rejection of a patron's presentee, solely on the ground of the dissent of the congregation, was illegal; and hence, that though the patron should refuse to present another, the presbytery could not claim, *jure devoluto*, the right to present in the patron's room, nor could any individual whom they might, in these circumstances, and upon their own authority, induct into the charge of the vacant parish, be entitled to the civil fruits of the benefice. It did not settle whether any, or what, compulsitor could be brought by the civil court to bear on the presbytery, for the purpose of controlling their ecclesiastical proceedings. Taking the decision, however, in connection with the grounds on which it was avowedly based, it could not fail to increase that anxiety and alarm to which the judicial opinions uttered the year before in the court of session, had already given rise. No one could read the speeches of Lord Brougham and the chancellor, without being fully satisfied that it was not by any means the mere veto-law that was now at stake, but the non-intrusion principle itself, in every shape and form of it,—and in addition to this, the church's whole right of self-government in matters spiritual. If those views of the law, regarding the rights of patrons, on which, in the court of last resort, the judgment in the Auchterarder case was expressly founded, were to be maintained,—the congregation, as such, must be pronounced to have

What this decision settled, and what it did not settle.

The judicial opinions of the Chancellor and Lord Brougham went much further than their sentence.

no legal standing whatever in the settlement of their minister. Their voice, whether for or against the settlement, must henceforth become a thing of nought. Their solemn and deliberate judgment, as to the presentee's unfitness to edify their souls, must be treated as a mere impertinence. Bestrode by the all-powerful patron, and with his spur in their helpless side, they must submit to be forced out of their own parish church, in order that his useless presentee may be forced in. Their opposition, even if made with all the circumstantiality of formal objections to his fitness for the charge, could not avail, unless, indeed, it should take the form of a libel against the soundness of his faith or morals, and be followed out in due course of law; and even then, unless the presbytery, which might chance itself to be not very rigid in such matters, should come to be of their mind, all their efforts to exclude the obnoxious presentee must fall to the ground. Nay more, upon the principle so confidently laid down in the house of peers, of the civil court having a right to review and reverse any sentence of a church court which *affected* civil rights, the concurrence of the presbytery with the people in their libel, would still leave the whole question of the settlement where it was. The case might be carried from the ecclesiastical to the civil court, and the sentence be there set aside, on the alleged ground that the charge libelled was not within the statute, or on any other of the thousand pleas which this right of review would open to legal ingenuity, — and thus, a presentee, libelled by the people, and convicted by the presbytery, might after all be carried over the necks of both, not

According to their opinions, the people cannot obstruct the settlement of a presentee, excepting by means of a libel.

Even a libel, though brought by the people and supported by the Church courts, might not avail.

CHAP. IX. merely into a benefice, but into the office of the ministry, and into a cure of souls!—that is, if any church court, even under the terrors of fine and imprisonment, the civil court's only weapons for enforcing its decree, could be found willing to degrade itself and to prostitute its sacred functions, by submitting to this erastian control.

This decision brought on a crisis in the affairs of the Church.

It was manifestly, therefore, no ordinary crisis which this final decision in the first Auchterarder case had brought on, in the affairs of the church. The interval was but a brief one between the 2d of May, when that decision was pronounced, and the 16th of the same month, when the general assembly convened. Brief as it was, however, it found at its close the assembly perfectly prepared to meet the emergency. Not only had there been much earnest consultation among those distinguished men upon whom, since 1834, the responsible charge of guiding the counsels of the church had chiefly devolved,—but among the most godly members of the church there had been much earnest prayer.

Prayerful preparation for the meeting of Assembly 1839.

Special meetings had almost everywhere been held, for the purpose of commending the assembly to the God of all grace and wisdom; and of supplicating, on behalf of its members, the spirit of love, and of power, and of a sound mind,—the spirit of faith and fidelity, and of the fear of the Lord.

The opening of the Assembly, and the Moderator's sermon.

This memorable assembly was opened, as usual, with divine worship, and a sermon preached by the moderator of the year before. The sermon had a text singularly appropriate to the assembly in which the question was to be determined,—are the rights of the christian people, in the calling and settlement of their

ministers, to be utterly abandoned by the church? The text was that exhortation of the apostle John contained in the 1st and 2d verses of the 4th chapter of his first epistle: "Beloved, believe not every spirit, but *try the spirits whether they be of God*, because many false prophets are gone out into the world. Hereby know ye the spirit of God: every spirit that confesseth that Jesus Christ is come in the flesh, is of God." In his discourse from these words, the preacher, the Rev. Dr. William Muir, of Edinburgh, was at some pains to prove that the right and duty of trying the spirits, belongs not to the clergy or church rulers alone, but to the private members of the church. There can be no doubt, indeed, that in asserting this important truth, it was against popery and not against patronage he meant it to bear. It is quite as good, however, for the one purpose as for the other—and though it clashed rather inconveniently, as will shortly appear, with Dr. Muir's own speech in the subsequent debate, it furnished a very solid argument in support of the motion that was adopted by the house.

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The text: meant by the preacher to apply to popery rather than to patronage, but equally good against both.

On the first day of the assembly, distinct intimation of the coming contest was given. As if impatient to announce the prompt and cordial readiness of himself, and of those with whom he acted, to conduct the affairs of the church on the footing of entire submissiveness to the decrees of the civil courts, Dr. Cook took the unusual course of calling the attention of the assembly, within an hour after it convened, to the result of the Auchterarder appeal, and of intimating his purpose to submit to the house a motion upon the

Dr. Cook's haste to proclaim his purpose of submitting to the civil courts.

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subject; suggesting, at the same time, a particular day of the following week for discussing it. The trumpet of the moderate leader, blown in such haste from one end of the lists, was answered on the instant from the other. Dr. Chalmers, who was known to have girded his giant strength for this momentous conflict, rose as Dr. Cook sat down, and calmly observed that, "he would feel it to be his duty to submit some distinct proposition to the house, and that he would table his motion at the same time with that of the Rev. Doctor." The gage of battle being thus taken up, a third champion advanced into the lists, eager, apparently, to step in between the combatants, and to persuade them to shake hands. The representative of no intelligible principle upon the question himself, Dr. Muir seemed to think it possible that even antagonist principles might be reconciled; that non-intrusion and absolute patronage, spiritual independence and erastianism, might, somehow or other, be made good friends. "It was plain," said the ex-moderator, "that propositions which might be conflicting were impending over the assembly. Yet surely there might be elicited, by a private friendly discussion of the propositions contemplated, some ground on which a harmonious resolution could be obtained." This notion of arranging, in some quiet half-hour's private talk between the leaders, a difference which affected the whole theory of the church's constitution, and which had been publicly debated for years, was, of course, by common consent rejected. Its author clung to it notwithstanding, expressing his hope that "the learned and reverend doctors would consider them-

Dr. Chalmers announces that he, too, will have a motion to propose.

Dr Muir suggests that the matter may be settled in a "private friendly discussion."

selves free to amalgamate their motions into one, if they saw that this would be for the good of the church:" a very amiable imagination, doubtless, but one which betrayed a singular misapprehension both of the parties and the principles that were about to come into collision. It was but recently that Dr. Muir had begun to interest himself in the general business of the church. He had been accustomed, indeed, during by far the greater part of his previous ministry, to absent himself entirely from church courts, and to addict himself exclusively to his pulpit and parochial duties. Pursuing this course, he had justly earned for himself the reputation of a faithful and useful minister, but on the other hand he had, by this seclusion, totally unfitted himself for being an efficient counsellor upon great public questions like those which were now agitating the church. His evangelical sympathies were understood to have been of late drawing him more and more towards the men of the party of Dr. Chalmers,—while at the same time, in matters of church policy, his leaning had always been towards the side of moderatism. On the present occasion he had taken his place, with mathematical precision, in the very centre of the cross bench, and from this position it was he attempted to step in after the manner above described, between the moderate and evangelical leaders, and to bring them to one! The circumstances now mentioned seemed, at least at the time, both to explain and excuse a proceeding which otherwise, as coming from a person of Dr. Muir's standing and intelligence, it might have been somewhat difficult to understand.

Dr. Muir had but recently begun to interest himself in the business of Church courts.

His seat in the centre of the cross-bench.

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The antagonist motions of Cook and Chalmers laid on the table two days before the debate.

To indicate still more strongly the importance which was so justly attached to the approaching debate, Drs. Cook and Chalmers laid their antagonist motions on the table of the assembly two days before it came on. The fullest opportunity was thus given to every member of the house to consider their real import, and to determine to which of them he should lend his support. The motion of Dr. Cook set out with a long preamble, in which were minutely detailed the origin and progress of the Auchterarder case,—first in the courts ecclesiastical, and afterwards in the courts of law. Thereafter it proceeded thus:—"Under these circumstances, it is moved, that the act on calls, commonly denominated the veto act, having been thus declared by the supreme civil tribunals of the country to infringe on civil and patrimonial rights, with which the church has often and expressly required that its judicatories should not intermeddle, as being matters incompetent to them, and not within their jurisdiction, it be an instruction by the general assembly to all presbyteries that they proceed henceforth in the settlement of parishes according to the practice which prevailed previously to the passing of that act; keeping specially in view the undoubted privilege of parishioners to state, at the moderation of the call, any relevant objections to the induction of presentees; upon which presbyteries, after hearing parties, shall decide,—it being in the power of these parties to appeal, if they see cause, to the superior church courts." It was on Wednesday, the 22d of May, the discussion took place. Before entering on it, a venerable member of the house, the Rev. Mr. Burns, of Kilsyth, was called on by the

The motion of Dr. Cook.

The Rev. Mr. Burns, of Kilsyth, called on to engage in prayer.

moderator to invoke in their behalf the presence and blessing of almighty God. This was about twelve o'clock noon, and the debate was concluded about two hours after midnight. Dr. Cook's argument in support of his motion amounted substantially to this:— CHAP. IX.

Summary Dr. Cook's argument.

It has now been conclusively determined by the courts of law that the veto act affects civil rights; the standards and laws of the church forbid her courts to handle things which pertain to the civil jurisdiction; the assembly of 1834, in passing the veto act, is proved to have violated that prohibition, because the civil tribunals have declared this to be the fact; the veto act is therefore null and void; the church is bound to treat it as such, and to go back at once, and as matter of course, to the state of things which preceded its enactment. The fallacy which runs through this whole argument lies here. It assumes that the church is stepping out of its own ecclesiastical province, and meddling with what belongs to the civil jurisdiction, whenever it touches anything which draws, however indirectly, some civil consequence in its train. As has been already sufficiently shown, this is in other words to deny that there is such a thing as a province ecclesiastical,—a province proper and peculiar to the church. Dr. Cook forgot altogether to advert to the fact that the same church standards which prohibit the ecclesiastical courts from meddling with matters civil, deny not less peremptorily to the civil courts all right and competency to meddle with matters ecclesiastical. If the courts ecclesiastical forget this distinction, the civil court will, of course, protect itself by disallowing to the illegal acts of the church any civil result, and

The fallacy of his argument.

The standards of the Church prohibit the State from meddling with matters spiritual, as peremptorily as they prohibit the Church courts from meddling with matters civil.

CHAP. IX. by treating them as in this respect destitute of all force and effect. But, on the other hand, it belongs to the very essence of that distinction between the civil and ecclesiastical, which the standards of the church lay down, that there is a corresponding right, inherent in the courts of the church,—a right to guard what is ecclesiastical from the encroachments of the courts of law. As the civil courts are not bound to hold a church act to be *ecclesiastical*, merely because the church has chosen to call it so,—no more are the courts ecclesiastical bound to hold it to be a matter *civil*, merely because the courts of law have been pleased so to decide. Each class of courts must judge for itself, and act accordingly. It is curious to observe how strangely Dr. Cook misrepresents this very simple and harmless proposition. "The very idea of it," he says, "is a contradiction in itself. We not only have not, but we could not have, such a power consistently with the purposes and intentions of the civil government. There cannot be two independent legislatures in the same country. It is impossible that society can exist if one legislature be not supreme. If we admit an *imperium in imperio*, we tear up the foundations not only of government, but we tear up the foundations on which the whole system of social union rests." This is surely an example of very great confusion of thought. Dr. Cook identifies the courts of law with the legislature; and because the church refuses to submit to the sentence of the one, he takes for granted that it is setting itself up in opposition to the other. But how does the case actually stand? The argument of his opponents was this,—the legislature of the country has

Dr Cook's mode of stating the views of the supporters of spiritual independence.

delegated one kind of jurisdiction to the courts of civil law, and it has ratified another kind of jurisdiction as belonging to the courts of the church. The legislature has not made the one class of courts subject to the other, but has placed them on the footing of courts of co-ordinate jurisdiction, and has declared the decisions of each to be final in regard to all matters which fall within its own province. On the supposition that this was a correct statement of the fact, it is abundantly obvious that, in refusing to acknowledge the right of the civil court to control its proceedings in matters ecclesiastical, the church, instead of rebelling against the legislature, was only giving effect to the legislature's design. If, when the time for making the appeal arrived, this view of the relative position of the civil and ecclesiastical courts should be disallowed by the legislature of the country, Dr. Cook's opponents never hesitated to avow, what their after conduct nobly exemplified, that then their resistance would be at an end. All along, they distinctly declared that it did, and must, belong to the legislature to determine on what conditions it will confer upon a church the immunities of a civil establishment; and that if once its decision should be given forth to the effect of sanctioning that doctrine of the civil courts' supremacy, now heard of for the first time since the revolution settlement of 1690, there could be but one or other of two alternatives open to loyal subjects and men of honour,—either to submit to that civil supremacy in matters spiritual, or to leave the establishment altogether.

The State recognizes the civil and ecclesiastical courts as co-ordinate.

Should the State determine otherwise, and insist on a civil supremacy in matters spiritual, there would then be nothing left but to submit, or to renounce the Establishment.

Such being the real state of the question, it was unworthy of Dr. Cook to attempt to load his opponents

CHAP. IX. with the odium of seeking to set up the old popish principle which subordinated the civil to the ecclesiastical power. It was impossible that Dr. Cook could be ignorant of the radical difference between a claim, like that of popery, to subject the state to the church, —and a claim, like that of the church of Scotland, to be free from civil coercion in administering its own spiritual affairs. The former was the claim of tyranny, the latter is the claim of liberty of conscience. The one was the ally of despotism, the other is the only foundation for true and lasting freedom. Not only, however, did Dr. Cook raise this groundless and senseless cry,—a cry which was afterwards greedily caught up, and confidently repeated, by many who knew nothing about it,—but he allowed himself to indulge in vilifying the church to which he belonged, by attempting to show that this usurping spirit was no new feature of its history, but one which had appeared more than once before. As his one solitary proof of this offensive charge, he read an extract from the Book of the Universal Kirk, on the strength of which, he accused the assembly of 1591, of maintaining, "that ecclesiastics should not be brought under the cognizance of civil tribunals," and of dragging before them "a judge of the court of session" for an act done by him, "in the exercise of his duty, sitting upon the bench administering justice." This, observed the Presbyterian Review in its commentary on Dr. Cook's speech, "is a pure fabrication, a gratuitous calumny, utterly unsupported by the record on which Dr. Cook professes to found it, and expressly contradicted by the known facts of the case, as established

Dr. Cook tries to confound the claim of the Church with the claim of Popery.

Vilifies his own Church.

The Presbyterian Review's answer to his statement on this point.

by the testimony of an opponent. Spottiswoode, notwithstanding all his strong prejudices, brings no charge against the church for their conduct in this matter: and from his narrative of the facts of the case (pp. 384, 385), it is quite evident that Dr. Cook's accusation is wholly unfounded. Dr. Cook, however, is not the fabricator of this calumny. He has borrowed it from two most disreputable episcopalian productions; viz., that infamous libel, Bishop Maxwell's Burden of Issachar, and that most virulent and mendacious book, Heylin's History of the Presbyterians (p. 295). It is also deserving of remark, that Principal Baillie, in his reply to Maxwell, describes at length the actual facts of this case, and proves that this slander of Maxwell's (the very same as Dr. Cook's), is utterly groundless, and that the assembly on that occasion did not attempt to interfere in any civil matter, and did not try to step beyond their province of judging in ecclesiastical affairs. Dr. Cook of course knows these facts: but we take the liberty of recommending to his attention the following sentence with which Baillie introduces his reply to this calumny as brought forward by Maxwell:"—

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Dr. Cook's story was a calumny borrowed from Maxwell and Heylin.

"At this place, p. 46, you bring us another story, whereupon you make tragic outcries of the assembly's insolent usurpations. It seems you thought that this your book should never have come from Oxford into the hands of any Scotchman who knew the custom of the judicatories of Scotland. *I do marvel much at your impudence*, that you should speak of the assembly's encroaching upon the lords of session with any

The calumny exposed long ago by Baillie.

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civil cause which the law commits to any temporal judicatory."

Baillie wondered at the impudence which could publish such a story at Oxford; what would he have said of its being published in the General Assembly.

"If Baillie," continues the Review, "marvelled much at the impudence of a bishop who had been excommunicated by the church, and declared an incendiary by the state, in publishing at Oxford so groundless a calumny against the church of Scotland, how would he have described the conduct of the man who, himself a minister of that church, and one who had written its history, should have dared to repeat the very same calumny in the face of the general assembly."*

It was entirely in keeping with those views which Dr. Cook had given forth, as to its being the church's duty in every case to accept the sentence of the courts of law, as decisive of what does, and what does not belong to the ecclesiastical jurisdiction, to say as he did. "It appears to me, therefore, that the veto-act is not an act of the church: it is altogether a nullity: the church was acting under error,—she did that which she supposed she was competent to do: but it is now found that she was not competent, and the act falls to be considered as no act of the church at all. This being the case, there is no occasion, in my estimation, to send down this act to be repealed, to the different presbyteries. We had not the power to pass it: we cannot have the power to repeal it: it is an absurdity, and therefore, in my opinion, it falls to the ground altogether." Such was the state of utter

Dr. Cook holds the Veto-law to be no law of the Church at all, because disallowed by the civil courts.

* Presbyterian Review, Vol. XII., pp. 175, 176.

impotence and slavish subjection to the courts of law, to which Dr. Cook sought to reduce, by his motion, a church whose glory it had ever been to hold, as the cardinal principle of its constitution, that Christ was its only Head and King. Those who have studied that church's laws and history, will judge whether its true genius be found in the crouching and craven spirit which breathed in the speech and motion of Dr. Cook, or in the unflinching resolution and noble sentiments which pervaded the speech and motion of Dr. Chalmers.

The spirit of the Church of Scotland breathed not in Cook, but in Chalmers.

In the outset of his elaborate and magnificent address, Dr. Chalmers took occasion to state, that in 1833 and 1834 he had been himself in favour of going to parliament—"not for the purpose of obtaining the sanction of the state in favour of our own great constitutional principle of non-intrusion—for that I hold to be beyond their province—neither for the purpose of superadding the civil to the ecclesiastical sanction, in order to confer a rightful authority either on the veto-law or any other device by which to carry the principle of non-intrusion into effect—for that I hold to be equally beyond their province—but for the purpose of making sure that we did not forfeit that which it is altogether within the power and province of a government either to give or to withhold, the inestimable benefits of a national establishment." In alluding to this fact, it was not so much the speaker's object to vindicate his own consistency in proposing, as he was about to propose, that they should do now what it had been his wish to do five years before; as rather, to meet a particular and very mischievous objection

Chalmers explains that in 1834 he wished to have gone to Parliament.

CHAP. IX. which, in high and influential quarters, was rife at that moment against the conduct of the church. The church was accused of the grossest recklessness in passing the veto-law. It was assumed that those who guided its counsels had neither inquired nor cared about the risk of bringing on a collision with the civil rights of patrons. Adverting to those who entertained such views, "it may, perhaps," said Dr. Chalmers, "blunt the edge of their dislike to us, when made to understand, that at the very commencement of this ecclesiastical law there were the most anxious solicitude and inquiry in regard to the bearing which the civil law had upon it; and if these were confined to the chamber of consultation and did not come forth into visible display, it was because met and satisfied by the high authority of his majesty's law officers in Scotland. If no reference was made to the government during the enactment of this law, it was because their own legal functionaries were upon its side, and any charge which the champions of loyalty may found upon this, lies at the door, not of the ecclesiastics, but of the civilians of the general assembly."

They did not go to Parliament in 1834, because the law officers of the State assured them it was unnecessary.

The independence resolution of the preceding year had already alienated many conservative statesmen and members of the Scottish aristocracy, from a cause which Dr. Chalmers had deeply at heart, —the cause of church extension. A church not tied hand and foot by civil statutes, not subject in everything to the control of the courts of law, they looked upon as dangerous to the commonwealth. Their own notions of a church establishment being all formed upon the model of the church of England,

The independence resolution of 1838 had alarmed some of the conservative statesmen, and of the Scottish aristocracy.

with the parliament for its legislature and the sovereign for its head; they were equally surprised and alarmed to hear of such pretensions to a self-governing power as were maintained by the church of Scotland. It seemed to them to be only another manifestation of the dreaded spirit of radicalism and revolution. Nor was this impression at all weakened but rather strengthened by the fact, that the shield of that jurisdiction, in all matters and causes ecclesiastical, which the church claimed as her own, she had been throwing as a protection over the spiritual rights and privileges of the people. For the sake of that great cause to which his whole soul was devoted, as well as for their own sake, he would fain have disabused these frowning grandees of their utterly mistaken prejudice. "Let me," he exclaimed, "give an assurance, which I do with the profoundest respect to the nobles and high gentlemen of Scotland, that never, never was there a greater misconception than to look on the doings of our church, as they would on the fermentations of some coming anarchy which is to go forth and desolate the land. Truly they confound the things which differ; they apprehend the same danger from giving way to the popular mind in this ecclesiastical question, as from giving way to the popular mind in a question of civil or political warfare; and in perfect keeping with this, they look on the vindicators, or if you will on the champions of this cause, just as they would on the agitators or demagogues of the commonwealth in seasons of plebeian delusion, or of fierce and frenzied partizanship; never was there an imagination wider of the truth. There is no affinity

The right of self-government claimed by the Church was looked upon by them as another form of radicalism.

Dr. Chalmers' appeal to this class,—and his attempt to remove their needless alarm.

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whatever between the demand, the honest demand, of the common people for a pure gospel, and those demands which are lifted up in the loud accents of turbulence and menace for the extension of their rights as citizens. There is a total distinction and dissimilarity between those two things. Even an anti-patronage clergyman—let alone a vetoist—is just as unlike a chartist or a radical as William Wilberforce is unlike to William Cobbett."

An anti-patronage clergyman as unlike a Chartist as William Wilberforce is unlike William Cobbett.

Leaving these more general considerations by which Dr. Chalmers sought to conciliate, in the high places of the land, a favourable reception for that appeal which he designed to recommend that the assembly should make to the government and parliament, with a view to obtain a legislative sanction for the veto-law, —he came next to the question,—What is to be done meanwhile, and until that sanction is given? On this fundamental point his views were clear and strong. When the hazard of an adverse decision in the Auchterarder case had first been spoken of, his own impression, and he had spoken of it often and openly to others, was, that in such an event he would be prepared to go back from the legislative to the judicial powers of the church, and to effect by the veto of the presbytery what could not be effected, so as to carry the benefits of the establishment along with it, by the veto of the congregation. Not, indeed, that he would ever for a moment have consented to do this on the footing contemplated in the motion of Dr. Cook. He would have done it "in the event only of the veto-law being repealed, which law we never can be freed from till it is repealed ecclesiastically. But supposing it

Recommends that a legislative sanction should be sought for the Veto-law.

thus repealed; and supposing also that we had tried to obtain the civil sanction for the veto-law, or something else in its place, and had failed;" it was then, and in that case alone he "should have had no objection to fall back on the judicial and administrative power of presbyteries."

The circumstances in which alone Dr. Chalmers would have been prepared to fall back on the judicial power of the Church.

Till the date of the Auchterarder decision in the house of lords, it had never occurred to Dr. Chalmers, and it could not have occurred to those who supported the motion of Dr. Cook, in the assemblies of 1833 and 1834, that presbyteries were not entitled to look at all the circumstances which seemed to affect the ministerial usefulness of a presentee, and having respect to all these circumstances to determine absolutely whether they would settle him or no. Why then was Dr. Chalmers no longer disposed to betake himself to such a course as the one he had described? "That *was* my ground," he said, "speaking to that very question,—and I have not shifted it. I have not changed my ground,—the ground has been cut away from me, and there is not one inch left for my feet to stand upon. Here we are, in virtue of this decision, and of the principles on which it rests, flung abroad upon a viewless gulph, with no support and no resting-place save a despotic patronage on the one side, or a lapse into voluntaryism on the other. There is positively nothing left for us between these two extremes in the present state of the law, as expounded by the two chancellors in the house of lords. And the precise object of my motion is to save us from both of these extremes,—from a system of patronage on the one hand, that will secularize our church, and justly

The judicial power of the Church as effectually taken away as its legislative power by the late decision, and especially as interpreted by the opinions of the judges.

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Nothing now but absolute patronage or the surrender of the Establishment.

alienate the affections of all our people,—from that system of voluntaryism on the other, into which, if we once plunge, there will plunge along with us the great mass and majority of our population into the depths of an irreligion and a vice, from which, with but the means and forces of a voluntary church, we can never recall them."

Dr. Chalmers had not then contemplated those methods which, when driven, four years afterwards, into separation from the state, his own great mind devised, of calling forth the resources of a voluntary church. But to whatever extent he may himself, by the divine blessing on his own wisdom and energy, have thus become instrumental in diminishing the very evils which he dreaded and foretold, enough, alas! will remain behind amply to justify the solemn warning which he gave. And the time will come when men will look back with equal indignation and astonishment, at the choice which statesmen made,—when, in the nineteenth century, the æra of progress and political reform, they preferred the alternative of maintaining unaltered a barbarous and oppressive law of the middle ages, to the concession of a principle so just and reasonable as this, that a congregation should be allowed at least a negative voice in the choice of their minister!

The time will come when the folly of having disregarded Dr. C.'s solemn warning will be seen and understood.

By large extracts from the printed judicial speeches of Lords Cottenham and Brougham, Dr. Chalmers substantiated to the full that account of their decision which he had submitted to the house. He showed that, not the right of dissent alone, but the call, in every form of it, had been swept away. And further-

Shews that the people and the presbytery have been stripped equally of their privileges by the late decision.

more, that while the congregation had been stripped bare of every privilege they had hitherto been understood to enjoy, the presbytery had fared no better. Excepting within the limited range of literature, life, and manners, they were held to have nothing whatever to say to the patron's presentee. He might be utterly destitute of preaching gifts; there might be no evidence of the grace of God in his heart; he might be a man who was evidently destined to lay the parish desolate; the presbytery might have the most solemn conviction that they were sinning against God in committing to him the holy ministry and the care of immortal souls,—but not being able to prove him a heretic, a profligate, or an ignoramus, they must trample on the laws of their church, on the principles of God's word, on the dictates of their own conscience, on everything that should be most sacred to ministers of Christ,—and, simply at the bidding of a court of law, and under the coercion of brute force, they must ordain and admit him to the charge!

Quotes the case of Mr. Abbott of the Church of England.

By way of illustrating the monstrous nature of that jurisdiction which the courts of law were now claiming over presbyteries, in regard to a process which involved the spiritual act of ordination, Dr. Chalmers referred to the church of England. He quoted the case of a Mr. Abbott, M.A., of Queen's College, Cambridge, who, on being refused ordination by the Bishop of Norwich, and also, on appeal, by the Archbishop of Canterbury, applied to the crown, as head of the church "to remove this hinderance to his obtaining episcopal ordination." To this application, made in 1830, Lord Melbourne, as the king's first minister,

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In his case Lord Melbourne refuses to advise the King to interfere with a Bishop's right to give or withhold ordination.

replied, that he "cannot advise the king to give any command for controlling the judgment of a bishop on the subject of ordination to holy orders." And yet, what the sovereign, though having undoubted jurisdiction in matters spiritual, according to the law and constitution of the church of England, would not venture to do there, the courts of law were now prepared to do here,—notwithstanding that these courts of law had not one particle of jurisdiction in any matter spiritual whatever! True, indeed, in England, ordination is usually separated altogether from induction. They ordain first,—and when the patron issues his presentation, it is in favour of one already in holy orders,—nothing but induction, therefore, remains, and induction the law and practice in England treat as a matter of civil right, to grant which the bishop

One of Lord Brougham's blunders.

may be compelled by legal force. Lord Brougham, misled by his English precedents, took it as a matter of course, that the only thing which created the difficulty as to the civil courts' interference in Scotland, arose out of the fact that here ordination and induction were usually combined. His lordship knew, however, that there were cases in which that combination did not exist. A patron may and does often present to a vacant parish a minister already ordained and in the enjoyment of a benefice. In this instance, said Lord Brougham, "the only question that can

Takes the case of an ordained minister presented to another charge.

arise is with respect to inducting him into the parish of A, whereas formerly he was settled in the parish of B;" and having provided himself with this case, "sifted entirely of the difficulty with which it is sought to be mixed up as to the first benefice,—because the

first benefice is accompanied with ordination and the second benefice is accompanied with no ordination at all,"—and having further laid down the principle that "whatever law applies to the case of the first benefice, in respect of the present controversy, must be equally applicable to the second benefice,"—he thinks he has here discovered an *experimentum crucis* that will carry him, without difficulty, to his conclusion. Assuming it to be an imagination too absurd for any one to indulge in, that a presbytery could refuse induction in the case of a minister already ordained, he reasons upon this assumption as a sufficient ground for holding that they cannot refuse it in the case of a minister not ordained.

Takes for granted that induction cannot be refused in such a case, and concludes that therefore it cannot be refused in any case.

"Now," said Dr. Chalmers, after quoting the passage in which this notable argument of the ex-chancellor is contained, "I would have the assembly specially to notice the total misunderstanding under which his lordship here labours in regard both to the law and the practice of our church judicatories. * * * He reasons from the imagination that when induction is separate from ordination, as in the transportation of ministers, the idea of a presbytery having the power to refuse such induction were an absurdity too violent to be entertained for a moment. And from this he reasons to the equal, if not greater, absurdity of a presbytery having power to refuse induction, when a minister for the first time has been presented to a parish. Now, it so happens that on every such question of a second induction, and wherewith the ordination of the presentee is not at all concerned, he having been already ordained on admission to his first parish,

Dr. Chalmers shows his lordship to be in error both as to the law and the practice of the Church.

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The thing which Lord Brougham takes for granted is not true.

on every such question of induction, and of induction alone, the church courts do put forth the very power, and actually describe the very steps, which, in the eye of his lordship, it were quite monstrous to conceive as possible. They call on the first congregation to appear at their bar and cite their reasons, if they have any, why their minister should not be dissevered from them: and they call also on the opposite side to state their counter reasons, why the removal should take effect. The presbytery sits in judgment on these reasons: and if their finding be the superior fitness of the presentee for his present over his proposed charge, they can put their authoritative interdict on the removal—an interdict the power of which has never been disputed that we know of; but, as a matter of course, is acquiesced in by all parties, though to the great disappointment, it may be, both of the patron and presentee. So late as last year this very process was gone through, to the very great disappointment of the patron. His lordship has just carried us to the very place where the strength of our cause appears in characters of most irrefragable demonstration. Go to England, where ordination is given separately from induction, and we there see that no civil power, not even the king, who is the head of their church, would offer to control a bishop in the matter of ordination. Come back to Scotland, and look to the only cases where induction takes place separately from ordination, as in the transportation of ministers, and we there see the absolute, uncontrolled power of the presbytery, either to reject the presentation or to give effect to it. In England, ordination is a matter not to be touched

The presbytery has always done, and without challenge, the very thing Lord Brougham considers to be impossible.

by the civil power, but is left altogether with the power ecclesiastical. In Scotland, induction, when it stands aloof from ordination, is a matter never touched by the civil power, but is left altogether to the power ecclesiastical. But by this sweeping sentence on the case of Auchterarder, the power ecclesiastical is doubly overborne. Not only are we lorded over as to the matter of induction,—respecting which our church has all along, and up to this moment, stood superior to the church of England,—but we are further lorded over as to the matter of ordination, in which, if our prostrate and fallen church do acquiesce, we shall be degraded immeasurably beneath the sister establishment. And all this, too, *as the conclusion of an argument not only different from the truth, but directly and diametrically opposite to the truth.*"

Lord Brougham's whole argument founded on a gross mistake.

Reckless, however, as Lord Brougham's assumptions and arguments might thus be shown to be, they had been made the basis of a decision which, in respect of all civil effects, must now be recognised as the law of the land; and with that decision before them, and still more with that decision read in the light of those principles on which it was professedly founded, the assembly must proceed to determine the question,—what was now to be done. Dr. Cook had agreed to append to his motion, the recognition of special fitness for the particular charge, as a legitimate ground on which the presbytery might place its judgment in rejecting or accepting the presentee; but special fitness was not within the definition given by the two chancellors of the term "qualification,"—it did not fall under any one of these three categories, *litera-*

No room left for even Dr. Cook's "special fitness," according to the doctrine of the House of Lords.

CHAP. IX. *ture, life,* or *manners.* In a word, there was no middle course left to the church. Absolute patronage, enforced at the expense of riding rough-shod over the entire field of the church's spiritual jurisdiction, must be acquiesced in at once, or a stand must now be made, once for all, against these intolerable aggressions. The only position that could be taken up, consistent with loyalty to the state on the one hand, and with true allegiance to the church's divine and glorious Head on the other, was that which, in the following motion, Dr. Chalmers proposed:—

The motion of Dr. Chalmers.

"The general assembly having heard the report of the procurator on the Auchterarder case, and considered the judgment of the house of lords, affirming the decision of the court of session, and being satisfied that, by the said judgment, all questions of civil right, so far as the presbytery of Auchterarder is concerned, are substantially decided, do now, in conformity with the uniform practice of this church, and with the resolution of last general assembly, ever to give and inculcate implicit obedience to the decisions of civil courts, in regard to the civil rights and emoluments secured by law to the church, instruct the said presbytery to offer no farther resistance to the claims of Mr. Young, or of the patron, to the emoluments of the benefice of Auchterarder, and to refrain from claiming the *jus devolutum,* or any other civil right or privilege connected with the said benefice.

The Church bows to the decision, in so far as matters of civil right are concerned.

"And whereas the principle of non-intrusion is one coeval with the reformed kirk of Scotland, and forms an integral part of its constitution, embodied in its standards and declared in various acts of assembly,

the general assembly resolved that this principle cannot be abandoned, and that no presentee shall be forced upon any parish contrary to the will of the congregation.

Resolves to abide by the principle of non-intrusion.

"And whereas, by the decision above referred to, it appears that when this principle is carried into effect, in any parish, the legal provision for the sustentation of the ministry in that parish may be thereby suspended, the general assembly being deeply impressed with the unhappy consequences which must arise from any collision between the civil and ecclesiastical authorities, and holding it to be their duty to use every means in their power, not involving any dereliction of the principles and fundamental laws of their (church) constitution to prevent such unfortunate results, do therefore appoint a committee for the purpose of considering in what way the privileges of the national establishment, and the harmony between church and state, may remain unimpaired, with instructions to confer with the government of the country if they see cause."

Appoints a committee to seek an adjustment of the difference between the civil and ecclesiastical law.

All that the state had given to the church in the parish of Auchterarder was the benefice, and the power, in certain circumstances, to exercise the patron's right of patronage. The late decision had ruled the point, that the act of assembly 1834 could not be enforced without the loss of these temporalities. The presbytery of Auchterarder was accordingly instructed, in the motion of Dr. Chalmers, to hold them as, for the present, forfeited by the church. It was lawful for the church to surrender the state's gifts, but not lawful to surrender any of her own fundamental

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It was lawful for the Church to surrender the State's gifts, but not to give up Christ's laws.

laws, so long as she believed them to be in accordance with the will of Christ, and necessary for the spiritual good of His people. The act of 1834 possessed these characters. The principle on which it rested formed part of her public profession as a church before her connection with the state began. She had carried it along with her into the state alliance, it had been always embodied in her standards, often proclaimed in her laws, frequently asserted in her administration, and never abandoned during the two centuries and a half that had elapsed since she received her civil establishment. She still held it to be both scriptural and expedient,—and a principle therefore which she could not renounce without doing violence to her own constitution and sinning against God. At the same time this state of things,—this contrariety of the civil law regarding the benefices, to the ecclesiastical law regarding the spiritual cures of the church, must tend, if continued, to break up the union of church and state altogether, and hence the recommendation with which the motion concluded, that a committee should be appointed to consider the best mode of adjusting this serious disagreement, with power to confer with the government of the country upon the subject. As the first effort of that committee would naturally be to obtain from parliament a law in harmony with the act of assembly, Dr. Chalmers dedicated a considerable portion of his speech to the vindication of the principle on which that act proceeds. The extract is long in which this vindication is contained, but it is far too full of both wisdom and eloquence to make it burdensome to the reader. It meets, and with a force of

The existing contrariety between the civil law as to the benefices, and the church law as to the cure of souls, must be done away if Church and State are to continue united.

argument which no opponent has ever ventured fairly to face, the only plausible-looking objection with which the non-intrusion principle has ever been assailed. CHAP. IX.

"Let me now conclude," said the distinguished speaker, "with a few brief remarks on the principle asserted in the preamble of the motion, that most express, and one of the most ancient of our statutory and constitutional principles; and, to this hour, the one in greatest demand, and the dearest of all others to the people of Scotland,—we mean the principle of non-intrusion. The object of the veto-law was to supply a definite test for the clear guidance and determination of church courts, and by which they might come at once to a deliverance on the question whether or not this principle is violated. But if we are not to have the direction of this law, then, though in the absence of its test, we are not to lose our hold of the principle, but judge as we can by any other tests that remain to us, whether by the ancient measure of a call,—happily preserved to us as a relic of better days, spared and transmitted, in the midst of their other cruel sacrifices, by the reckless innovators of last century,—or failing the call, for had this of itself been an unfailing index, the veto-law would never have been heard of: but in defect of the call as not being a perfect criterion, then must presbyteries look to the matter with their own eyes, and judge in their own consciences—and with a solemn feeling of their responsibility to the God of righteousness and truth—whether or not they hold the appointment of this man to be an intrusion or an offence to the chris-

The conclusion of Dr. Chalmers' speech.

The principle of non-intrusion not to be abandoned.

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tian feelings of the people; and whether or not, with this moral barrier in the way of his usefulness, it is for the christian good of their families that he should be inducted to the charge of their souls. I know what may be said against this; and it equally applies to the veto and the call, or to any other method by which you proceed on the mere fact of the popular antipathy, and that without requiring any statement, or at least any vindication from them, as to the reasons of it. I am fully prepared for all the wanton ridicule which has been cast on a popular antipathy, without reasons, or such reasons as can be stated before a bench of judges for them to judge upon. The Dean of Faculty, in his pleading before the lords of session, makes repeated and contemptuous allusions to this mystic and incomprehensible something—too shadowy for expression, too etherial to be bodied forth in language, and on which we would reject the presentee,—grounding our rejection on a veto, itself without grounds; or at least such grounds as are capable of being set forth and made intelligible to the minds of other men. Now, if there be one thing of which we are more confident than another, it is that here we have all philosophy upon our side, and all that is sound in the experience of human nature. Not in christianity alone, but in a thousand other subjects of human thought, there may be antipathies and approvals resting on a most solid and legitimate foundation,—not properly, therefore, without reasons, but reasons deeply felt, yet incapable of being adequately communicated. And if there be one topic more than another on which this phenomenon

Contempt thrown by the Dean of Faculty on the dissent without reasons assigned.

Dr. Chalmers vindicates that dissent.

of the human spirit should be most frequently realized, it is the topic of christianity; a religion, the manifestation of whose truth is unto the conscience: and the response or assenting testimony to which, as an object of instant discernment, might issue from the deep recesses of their moral nature, on the part of men with whom it is a fell reality,—able, therefore, to articulate their belief, yet not able to articulate the reasons of it. There is much, and that the weightiest part by far, of the internal evidence for christianity, that rests on the adaptations which obtain between its objective truths and the felt necessities or desires of our subjective nature,—adaptations powerfully and intimately felt by many a possessor of that nature, who is yet unable to propound them in language, far less to state or vindicate them at the bar of judgment. And if ever the prerogatives of the human conscience were at one time more cruelly trampled on than at another, it has been the last century, and at the bar of this house,—when the collective mind of a congregation, who both knew and loved the truth as it is in Jesus, has been contemptuously set at nought: and the best, the holiest feelings of our Scottish patriarchs, by lordly oppressors sitting in state and judgment, were barbarously scorned. In that age of violent settlements, these simple, these unlettered men of a rustic congregation could say no more, yet said most truly of the intended minister, than this, that he did not preach the gospel, and that in the doctrine he gave, there was no food for their souls. I cannot image a more painful spectacle, than such men as these, the worthies of the olden time, at once the pride and the preserving salt

Argument in favour of it from the nature of Christianity.

Condemns that contempt of the conscientious dissent of pious congregations which prevailed in the preceding century.

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Sketch of a scene in the Assembly during the reign of moderatism.

of our Scottish commonwealth, placed under the treatment and rough handling of an able, jeering, ungodly advocate,—while coarse and contemptuous clergymen, booted and spurred for riding committees,* were looking on and enjoying the scene: and a loud laugh from the seats of those assembled scorners, completed the triumph over the religious sensibilities of men who could but reclaim with their hearts and not with their voices. This was the policy of Dr. Robertson, recently lauded in high places,† a policy which has dissevered our population from our church, and shed most withering influence over the religion of the families of Scotland. Re-enact this policy if you will, and you place your kirk, as a national establishment, on the brink of its sure annihilation. Have a care, ye professing friends of order and loyalty,—have a care, lest by a departure from the line of resolute and unswerving principle, ye strip the church of all moral weight in the eyes of the community. Think of the deadly enemies by whom we are encompassed: and have a care, lest by one hair-breadth deviation from the path of integrity and honour, ye cause the hearts of these Philistines to rejoice.

Warns the Assembly against returning to the policy of the Intrusionists.

"This discernment of the gospel, this just percep-

* In those days the general assembly enforced the law of patronage both against the people and the refractory presbyteries, by means of travelling, commonly called riding committees, whose office it was to ordain the intended clergyman, which was not unfrequently done under the protection of a military force.

† By Lord Brougham, in giving judgment on the Auchterarder case. His lordship prided himself on his blood relationship to the leader of Scottish moderatism, and naturally admired the policy which his own decision sought to restore.

tion of truth, on the part of a home-bred peasantry, though unable to assign the principles or reasons, is not more marvellous than is their just perception of beauty, though unable to assign the philosophy of taste. Hear the most philosophical of all our poets, Akenside, who in his Pleasures of Imagination, bids us

Illustration of his argument from Akenside.

> 'Ask the swain who journeys homeward from a summer day's
> Long labour, why—forgetful of his toils
> And due repose, he loiters to behold
> The sunshine gleaming, as through amber clouds,
> O'er all the western sky. Full soon, I ween,
> His rude expression and untutor'd air,
> Beyond the power of language, will unfold
> The form of beauty smiling at his heart.
> How lovely, how commanding,—heaven
> In every breast hath sown these early seeds
> Of love and admiration.'

"In the one case our peasant feels, and correctly feels, an admiration which, unskilled in metaphysics, he cannot vindicate: in the other he knows the truth, but unskilled in logic, he can neither state nor defend the reasons of it.

"'It has been frequently remarked,' says Dugald Stewart, 'that the justest and most efficient understandings, are often possessed by men who are incapable of stating to others, or even to themselves, the grounds on which they proceed in forming their decisions.' 'An anecdote which I heard many years ago, of a late very eminent judge (Lord Mansfield) has often recurred to my memory, while reflecting on these apparent inconsistencies of intellectual character. A friend of his who possessed excellent natural talents, but who had been prevented by his professional duties

Dugald Stewart's anecdote of Lord Mansfield applied in vindication of the Veto.

CHAP. IX. as a naval officer, from bestowing on them all the cultivation of which they were susceptible, having been recently appointed to the government of Jamaica, happened to express some doubts of his competency to preside in the court of chancery; Lord Mansfield assured him that he would find the difficulty not so great as he apprehended. 'Trust,' he said, 'to your own good sense in forming your opinions: but beware of attempting to state the grounds of your judgments. The judgment will probably be right, the argument will infallibly be wrong.'"—*Stewart's Elements*, vol. ii. 8vo. pp. 103—106.

"I would take," continued Dr. Chalmers, after giving this most pertinent quotation from the celebrated metaphysician, "the verdict of a congregation, just as I take the verdict of a jury, without reasons. Their judgment is what I want,—not the grounds of their judgment. Give me the aggregate will; and tell me only that it is founded on the aggregate conscience of a people who love their bibles, and to whom the preaching of the cross is precious: and to the expression of that will, to the voice of the collective mind of that people, not as sitting in judgment on the minor insignificancies of mode, and circumstance, and things of external observation, but as sitting in judgment on the great subject-matter of the truth as it is in Jesus,—to such a voice, coming in the spirit and with the desires of moral earnestness from such a people, I for one would yield the profoundest reverence."

The congregation compared to a jury, which gives its verdict without assigning reasons.

The motion of Dr. Chalmers having been seconded in a vigorous speech by Mr. Bruce, of Kennett, as

that of Dr. Cook had, without any speech, been seconded by Mr. Smythe, of Methven, Dr. Muir presented himself to the notice of the assembly. When these motions were tabled two days before, Dr. Muir had intimated that neither of them met his views, and hinted that he would probably propose something different from both. The addition Dr. Cook had since agreed to make to his motion, by introducing special fitness for the particular congregation, as one of the grounds on which the presbytery must rest its judgment in rejecting or admitting a presentee,—had, to some extent, conciliated Dr. Muir; though he was "still desirous of going further."* His own plan, which he proceeded forthwith to explain, would have involved a complete departure from the course which had been followed by the church in the settlement of ministers from time immemorial. The first step of that process had always been to send the presentee to preach to the congregation; for until he had done so, and obtained their call, it was the assumption of the church that they had no warrant to proceed further in the matter. Dr. Muir proposed, instead of this, "that immediately on a presentation being received and sustained, the presbytery enter on the trials of the presentee,—trials the object of which shall be to ascertain his still having those qualifications, theological, moral, and literary, which at the first sanctioned the granting to him a licence to preach the gospel."

Dr. Muir not satisfied with either of the two motions.

His own scheme.

Proposes to take the trials of the presentee *first*, and thereafter to appoint him to preach before the congregation.

* The addition made to his motion by Dr. Cook was this,—"that all ministers or entrants presented to kirks be tried before their admission, if they be qualified for the places to which they are presented, besides the ordinary trials of expectants before their entrance to the ministry."

CHAP. IX. Having passed safely through the first ordeal, they were to record the fact in their minutes,—and then to submit him in some way or other, which Dr. Muir did not attempt to explain, to a second ordeal, by which his suitableness for the particular congregation should be tested. Under this second ordeal, the "mind of the people" was to be one of the "circumstances and considerations for ascertaining his suitableness," which ought to become the subject "of investigation and judgment to presbyteries" in accepting or rejecting the presentee. It would not have been easy to contrive a scheme fitted to run more directly than this of Dr. Muir in the teeth of those views of the law which had been laid down in the house of lords in deciding the Auchterarder case. Let the presentee only have the presbytery's attestation that all was right with him in regard to "qualifications theological, moral, and literary," and anything beyond this would prove but a cobweb in the way of hindering his ordination and induction. The presbytery, by this process, would merely have furnished him with the staff to break their own heads, in the event of their presuming to throw their second ordeal across his path. The *first* had given him, by an express and recorded judgment of the presbytery, all which Lords Cottenham and Brougham held to be necessary for the completion of his title both to orders and admission. The attempt to interpose a *second* would be as great an illegality as the act of 1834,—and one still more offensive to the civil law, as having been framed at the very moment when the judgment of the civil courts forbidding it, had just been pronounced.

"The mind of the people" to be taken into account, but did not explain how, or to what effect.

The whole scheme as much at variance with the Auchterarder decision as the Veto-law itself.

There were, however, many other objections to the scheme of Dr. Muir: and these were stated and urged with singular felicity and force, by one who was destined from that day forward to exert perhaps a greater influence than any other single individual in the church, upon the conduct and issues of this eventful controversy. The reputation of Mr. (now Dr.) Candlish as a preacher was already well known. His extraordinary talents in debate, and his rare capacity for business, not hitherto having found any adequate occasion to call them forth, were as yet undiscovered by the public,—probably undiscovered even by himself. They seemed, however, to have needed no process of training to bring them to maturity. The very first effort found him abreast of the most practised and powerful orators, and as much at home in the management of affairs as those who had made this the study of their life. There was a glorious battle to fight, and a great work to do, on the arena of the church of Scotland,—and in him, as well as in others evidently raised up for the emergency, the Lord had His fitting instruments prepared.

Dr. Muir answered by the Rev. R. S. Candlish.

His great talents in debate, and in the management of affairs till then unknown.

Dr. Muir had thrown his motion into the form of a series of resolutions. "First of all," said Mr. Candlish, after a brief exordium, "I find expressions introduced into these resolutions which, unless carefully explained and strictly guarded, would go far to lay the authority of the church prostrate at the feet of the civil power, not only in questions relating to the admission of ministers, but in other questions also, affecting the most sacred spiritual functions which the church can be called to exercise." In his second

Speech of Mr. Candlish.

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Points out the errors, both in fact and principle, contained in Dr. Muir's second resolution.

resolution Dr. Muir had laid it down, "that in passing this act (that of 1834) of her own will, and carrying it into effect, the church was influenced by the belief that this act, being not only in its nature, but also in its consequences, strictly and purely spiritual, there was no necessity to obtain previously the concurrence of the legislature to it." As Dr. Candlish justly remarked, this statement was really not true. In passing the act of 1834, the assembly knew well enough, and could not but know, that "in its *consequences*" it was not "strictly and purely spiritual." They knew that if the law took effect in the ordinary way, one of its consequences must be to exclude the presentee from the benefice. Why, indeed, did the church follow Mr. Young and Lord Kinnoull into the civil court at all but just because "consequences" were connected with the act 1834 that were not spiritual but civil, and on which, accordingly, the civil court alone was competent to adjudicate? But, furthermore, this statement of the resolution, so incorrect in point of fact, was as unsound in point of principle. If it had any meaning at all it could be only this, that it was *ultra vires* of the church to pass any act, however purely and strictly spiritual in its own nature, if only it could be shown to carry, no matter how indirectly and remotely, some civil *consequences* in its train. It was to this Mr. Candlish alluded, as a principle that would place the church, even in her most spiritual functions, under the entire and absolute control of the courts of law. In a word, it was precisely Dr. Cook's erastian principle somewhat less broadly announced; and their essential

identity was sufficiently brought out at the division, when at the final vote, Dr. Cook's motion had the support of Dr. Muir. The point, however, in Dr. Muir's resolutions which most needed animadversion was of a different kind. There was a great deal in them about "the judicial character and privileges of the ecclesiastical courts," but nothing whatever about the privileges of congregations. The only kind of intrusion to which Dr. Muir seemed to be opposed was intrusion against, not the will of the people, but the will of the presbytery. "I have looked," said Mr. Candlish, "and I do not find, from the beginning to the end of his resolutions, one single word recognizing the privileges of the christian people. The reverend doctor has pleaded for the power of the church,—in its courts, composed of its rulers and office-bearers, but without securing and carrying out along with that power the rights of the christian people. And this, to my mind, is substantial popery. It is a position which must go far to establish a system of spiritual despotism. In truth, it is only when the rights of the people in the church of Christ are secured that the power of the ruling courts can be safely pleaded; and it is then also that that power can be pleaded to its highest point. * * * If the people are once effectually secured in their rights, I hold that their rulers in the church may exercise a far more energetic superintendence, and a more discretionary jurisdiction than now they do; and may interfere with far more authority, in regulating and moderating the proceedings which take place throughout the whole matter of the settlement of ministers. If we recognize their

The point in Dr. Muir's resolutions which most required animadversion.

The resolutions pleaded for the prerogatives of the Church Courts, but studiously disregarded those of the people.

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privileges, we may require and expect them to recognize our prerogatives. For it is undoubtedly the right and duty of the rulers of the church, to moderate and control, with a high scriptural authority, the movements of *all the other parties* who act together in this matter. But when we assert the power of the church in its ruling courts, while the rights of the christian people are sunk and merged, we are asserting a power altogether unchecked and arbitrary, to which surely the Lord never intended that those whom He has made free should be subjected."

Mr. Candlish shews that it is only when the people have their rights secured, that authority can safely be vested in the Church Courts.

After expressing his satisfaction, that the form which the question had now assumed was that of a life and death struggle for the principle of non-intrusion; this, said he, "is the plain and palpable alternative" we have to put before our people:—"Will you have us to submit without a struggle and without an effort, to a system of patronage the most arbitrary and unrestricted,—to a system of patronage which, but for the milder temper of the days in which we live, might bring back those melancholy times when not ministers in their robes, but bands of armed men, introduced the pastor to his people? Will you submit, or will you have us to submit to that iron yoke which your fathers were unable to bear,—or will you give us your sympathies and your prayers while we stand up for the rightful power of the church of Christ, and assert at once and together *our* prerogatives as the rulers and *your* liberties as the people; while we go respectfully, but manfully to the other party, in the contract by which we are established, to the state,—to the authorities of the nation,—testifying to them what is their duty, and

The appeal to be made to the members of the Church in the present crisis.

soliciting them to the performance of it? I have no doubt whatever, that when the question is thus put, it will be fully, and cordially, and unanimously answered throughout all our parishes. But if the trumpet give an uncertain sound,—if we merely assert the rights of the rulers in the church, while we sacrifice or hold in abeyance the people's liberties, it will be no wonder if we have not,—we shall not deserve to have with us the heart or the prayers of one single man who is worthy of the name of Scotsman."

His confidence that the people will rally round the Church in such a cause

As the debate proceeded, the chief speakers in support of Dr. Cook's motion were, Mr. Whigham, advocate, and the Rev. Dr. Bryce, formerly of Calcutta; in support of the motion of Dr. Chalmers, and in addition to Mr. Candlish, Mr. Earl Monteith, advocate, and the Rev. Dr. Burns of Paisley; and in support of the motion of Dr. Muir, Sir Charles Fergusson, Bart. of Kilkerran, and the Rev. Adam Tait of Kirkliston. Mr. Whigham argued, or rather asserted, that the motion of Dr. Chalmers, if carried, would amount to a violation of the law. Dr. Bryce maintained that the simple fact of having appealed the Auchterarder case bound the assembly, as matter of course, to give up the veto-law at once, since the decision had gone against it; and said that when he saw his opponents hesitating to do this, "he felt inclined to doubt whether he was speaking to honest men and clergymen." This indiscretion brought the speech of the reverend gentleman, then in its opening paragraph, to an untimely end. After assuring the house, amid the storm of disapprobation which immediately arose, that he would sit down if it refused to hear him, and

The speakers who took part in the debate.

Dr. Bryce impugns the honesty of his opponents and breaks down.

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attempting to struggle on for a little in the face of the unmistakeable response which this appeal called forth, he sunk down into his seat. "Moderator," said Dr. Burns, reverting to this tragi-comic scene, "amid the vituperators of the veto, there is at least one gentleman who will be its friend—I mean Dr. Bryce—for he began his speech by telling us that the moment the voice of the house was lifted against him, though without reason assigned, he would cease to speak. It is true, he has not kept the pledge, but the countenance of a minister of thirty years' standing is worth something." Mr. Monteith occupied himself almost exclusively with the injurious charge brought by Mr. Whigham against the motion of Dr. Chalmers, of violating the law. His speech was one of eminent ability. It scattered Mr. Whigham's charge to the winds. It demonstrated, with a weight of evidence and argument altogether irresistible, the utterly unconstitutional character of that supereminent jurisdiction which was now claimed for the courts of law; it proved the jurisdiction of the church to be co-ordinate with theirs; and that the violation of law was consequently and altogether on the side of those who would betray that independence in matters spiritual which the state had ratified as the prerogative of the church. Mr. Tait, like Dr. Muir, was all for the "authority of church rulers." Sir Charles Fergusson thought Dr. Muir's motion the most "judicious," and that "if the motion of Dr. Chalmers was carried, the connection between church and state must cease."

Dr. Burns claims Dr. Bryce as a vetoist.

Mr. Monteith's answer to Mr. Whigham.

Rev. A. Tait, and Sir Charles Fergusson support Dr. Muir's resolutions.

Other speakers were still desirous to address the

assembly, but midnight was already past, men were exhausted, impatience for the decision had become strong and universal, and the debate was at length closed, when the light of the summer morning was already beginning to dawn. On the first vote there appeared— CHAP. IX. The division.

For Dr. Chalmers' motion	197
For Dr. Muir's motion	161
Majority	36

On the second vote—

For Dr. Chalmers' motion	204
For Dr. Cook's motion	155
Majority for the motion of Dr. Chalmers	49

The motion of Dr. Chalmers carried by a majority of 49.

This decisive majority clearly showed that the independence resolution of the year before was no idle bravado, but the calm and well-considered declaration of principles by which the assembly was determined, at all hazards, to abide. What was then a proclaimed purpose was now an accomplished fact. In 1838, the church had distinctly announced what she could and would give up at the bidding of the courts of law; and what she could not and would not give up at their bidding. The motion of Dr. Chalmers, adopted by the assembly of 1839, did nothing more than carry into practical effect the doctrines thus laid down. Nor was this unflinching firmness untempered with becoming moderation. Not only was a strong desire expressed, but the utmost pains were taken that nothing should be done meanwhile of a nature to give needless offence either to the minority of the

The motion of 1839 gives effect to the independence resolution of 1838.

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Means taken by the Assembly to guard against fresh collisions.

assembly or to the civil courts. An injunction was issued requiring the presbyteries of the church to report all cases of disputed settlements to the next general assembly. By thus sisting procedure in every instance where a fresh collision was likely to occur, matters might, without difficulty, have been kept at least *in statu quo;* and the committee appointed to negotiate for an alteration of the law of patronage would thus have been left free to prosecute their important commission undisturbed by those complications which every new conflict between the civil and ecclesiastical courts must inevitably produce. There can be no reasonable doubt, that had this arrangement been fairly dealt with by the minority in the church, the conflict might have had a totally different issue. Instead, however, of accepting this concession, and taking advantage of the opportunity which it offered of promoting an amicable settlement of the church's difficulties, it will be seen, as the history proceeds, how very different was the course they actually pursued,—how wantonly they aggravated the difficulties which already existed, and how recklessly they dragged the church into others still more formidable which need never have arisen at all.

These efforts to preserve the peace of the Church, frustrated by the subsequent proceedings of the moderate party.

Those of the moderate party who were bent on committing themselves to the extreme measure of resisting the laws and authority of the church received no little countenance and encouragement from an occurrence which took place in the assembly of 1839. In the committee nominated under the motion of Dr. Chalmers were included most of the leading members of the assembly, to whatever party belonging. When the

names were read over, on the morning of the day after the debate, Dr. Cook intimated his intention not to serve upon the committee. Upon this, the Earl of Dalhousie rose and signified that he too must decline to act. This intimation was the more surprising, that some days before, Dr. Chalmers had shewn his motion to that young and estimable nobleman, and had received his lordship's express consent to have his name placed on the committee and to take part in its business, in the event of the motion being adopted by the house. His excuse for now withdrawing that consent his lordship found, he said, in Dr. Chalmers' speech. That speech told the house what Dr. Chalmers understood by the expression, that "no pastor be intruded on any congregation contrary to their will." He understood it to mean—not contrary to the presbytery's will, but contrary to the congregation's will. All the world, however, knew this well enough before. His speech in 1833 was as explicit upon that point as his speech in 1839. Lord Dalhousie would have gone, he said, to parliament to ask for a law to sanction the right of the presbytery to judge of special fitness,—in other words, to sanction such a power as was contemplated in the concluding clause of the motion of Dr. Cook: for his lordship admitted, that under the Auchterarder decision, even that miserably limited prerogative would be denied to the church; but this was all the length he was willing to go. And now, therefore, that he had learned from the speech of Dr. Chalmers that the committee nominated under his motion was intended to go considerably farther; his lordship "could not

The Earl of Dalhousie's movement.

Reasons assigned by his lordship for withdrawing his promise to act as a member of the non-intrusion committee.

CHAP. IX. consent to join the committee when his doing so would commit him, not only to the principle (according to his own understanding of it), but to the principle according to the interpretation put on it in the speech delivered yesterday." Had Lord Dalhousie contented himself, after making this statement, with the withdrawal of his name from the committee, the incident would hardly have deserved any remark. Considering, indeed, how perfectly well known it was that Dr. Chalmers held those views of non-intrusion, of which Lord Dalhousie now complained, most men might have wondered that the difficulty which his lordship found so formidable had not sooner presented itself to his mind; but still the fact being so that his lordship had made, even at so late an hour, the discovery in question, no one had any right to find fault at his declining to assist in procuring the sanction of the legislature to a principle of which he disapproved.

Not contented with having his name erased from the list of the committee, his lordship must have it erased from the roll of the House.

But Lord Dalhousie did not content himself with having his name erased from the list of the committee. He must also have it erased from the roll of the house. Not only would he not sit in the committee, he would not sit an hour longer in the general assembly! And all this because a motion had been carried, whose object he had himself been willing, three days before, to concur in promoting. True, indeed, his lordship was pleased to state his reasons for this strong and necessarily, to the house, offensive step, somewhat differently. "I will not form," he said, "part of the governing body of an established church which, with no invasion by the state of any of her holy and inherent rights, in defence of no sacred principle,

but for a matter of mere ecclesiastical polity, has set herself up in an attitude,—for so it is, gloss it as you will,—in an attitude of dogged defiance, of virtual disobedience to the declared law of the land." But what had the assembly done to justify this language? If the motion of Dr. Chalmers involved no "defiance" and no "rebellion" against the state when his lordship gave his consent to act under it, why should it be loaded with these odious accusations now! Not a letter of it had been changed. And even if the speech of Dr. Chalmers had been both rebellious and defiant,—instead of being as it was, full of deference and loyalty,—it was not the *speech* the assembly had adopted, or for which the assembly was responsible, but the *motion* alone. And granting that Lord Dalhousie may have been ignorant before of what he knew now, that the non-intrusion principle contended for by the motion was a much stronger kind of non-intrusion than his own,—there was, at least, no such difference between them as to make the asserting of the one a duty, and the asserting of the other a crime. Lord Dalhousie himself admitted that his non-intrusion was swept away by the Auchterarder decision as effectually as that of Dr. Chalmers; and that without an act of parliament his non-intrusion would be found as much in collision with the civil law as the non-intrusion of Dr. Chalmers: and yet by giving his consent to act under the motion of Dr. Chalmers he was, at the very least, declaring that, let the civil courts say what they might, his lordship's non-intrusion was a principle that "cannot be abandoned," and in the face of which no presentee would be settled

His lordship's view of the conduct of the Assembly.

His lordship admits, that *his* non-intrusion cannot stand with the Auchterarder decision, any more than that of Dr. Chalmers.

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by the church. His point of resistance was considerably in the rear of that occupied by Dr. Chalmers, but it was still outside and in advance of what Lords Brougham and Cottenham had declared to be the line of the civil law. If there was rebellion in refusing to surrender the one position, there was rebellion in refusing to surrender the other. And yet it was in these circumstances Lord Dalhousie ventured to charge the supreme ecclesiastical court — which he had entered for the first time in his life only a few days before, and of which he was probably the youngest member—with rebelling against the law of the land. His lordship gave himself no time to reconsider the sentiments he had uttered, for after telling the house, if not with all the dignity at least with all the confidence of a prophet, that the church had "already rung out her knell as the established church of Scotland," he immediately withdrew; and by thus setting to the other office-bearers of the church a conspicuous and influential example of contempt for her authority and laws, he did his best to sow the seeds of that ecclesiastical insubordination, to which undoubtedly is due whatever fulfilment his prediction has received.

If there was rebellion in refusing to abandon Dr. Chalmers' non-intrusion, there would have been the same in refusing to abandon his lordship's.

Before leaving this important assembly, it may not be out of place to glance for a moment at some of its other proceedings. They will serve to show that the stand the church was now making for the integrity of her constitution, however it might have cooled the attachment of certain statesmen and secular politicians, had been drawing more closely around her the affections of her own people, and the esteem of other branches of

A glance at the other measures of this Assembly.

the church of Christ. The independence resolution of 1838 had broken up those conferences in London, at the house of a certain great political chief,—in which, for some months before, much interest had been expressed in the cause of the extension of the church of Scotland. It exerted, however, no such chilling influence among the people of Scotland themselves. And, accordingly, in the assembly of 1839, Dr. Chalmers had to report, as the contribution for church extension made during the preceding twelve months, no less a sum than £52,959. It was in the course of that same period a new fund had been commenced,—of whose origin and prospects Dr. Chalmers spoke in the following terms. The extent of spiritual destitution, and the consequent call for additional churches, being found to multiply the demands on the ordinary fund greatly beyond its means of meeting them,—"on revealing," said Dr. Chalmers, in his report to the assembly, "the difficulties of our scheme to him who from the first has been its most munificent supporter, Mr. William Campbell, of Glasgow—practised in business, and with a sagacity in devising liberal things only equalled by the open-heartedness which prompts and actuates him onwards to the noblest sacrifices, and leaves us at a loss whether most to admire the largeness of his benefactions or the largeness of his views,—this truly patriotic friend of the church of Scotland has suggested a plan, which now that it has been put, though as yet partially, into operation, bids fair, if only prosecuted with sufficient energy, to bring our enterprize into its desired haven. The proposal is to contribute, at the rate of £1 or more, for each of

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Continued prosperity of the Church extension scheme.

Mr. William Campbell of Glasgow, and the supplementary fund.

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the next hundred new churches not begun to be built previous to the publication of the assembly's church extension report of 1838; or for any smaller number of new churches which subscribers may choose to fix upon." This supplementary fund, though but newly started, had already reached the munificent sum of £27,000. If peers and politicians thought the church of Scotland less worthy of countenance because of her non-intrusion and spiritual independence, those who knew the practical worth and working of these principles had arrived at a very different conclusion.

Peers and politicians might dis-relish the Assembly's proceed-ings; but not so the members of the Church.

It was under an act of this assembly, too, that a large body of presbyterians, which had been long separate from the establishment—the burgher synod of original seceders—returned to the communion of the national church,—"the beginning," as Mr. Candlish, the mover of the act, trusted, "of that ingathering by which the church of Scotland might yet be the church of all the people of the land." Nor was it only from brethren at home this assembly received testimonies of fraternal regard. The presbyterian church in England—the presbyterian church in Ireland—the presbyterian church in Canada,—had each of them appeared by their deputies in the assembly of 1839, for the purpose of cultivating friendly relations and a closer alliance with the evangelical and reforming church of Scotland.

The synod of original seceders re-enter the Church.

Not long after the assembly rose, a deputation from the committee appointed under the motion of Dr. Chalmers, proceeded to London. Unhappily for the success of their mission, the government then in office were not strong. Able to command but a bare

Deputation to govern-ment.

majority in the house of commons, and liable to be out-voted any day in the house of lords, they could not afford to take a decided course on almost any question that was likely to involve much difference of opinion. There can be no reasonable doubt that to this cause was mainly due the hesitating, half and half course which they followed on the affairs of the church of Scotland. The veto-law had been passed by the assembly in 1834, with the express concurrence of the Scottish law officers of the crown. If the church had erred in believing that this law made no invasion of the legal rights of patrons, she erred in common with the highest authorities she could consult upon the question. Even, therefore, if it had not been as it was—substantially the same ministry and the same political party that were still in power in 1839,—the circumstance now stated would have entitled the church to expect the prompt assistance of the government in extricating a great national institution from difficulties growing out of a measure to which the proper legal advisers of that government had given their deliberate sanction.

The weakness of the government hindered them from grappling with the case.

Special obligation under which that government lay, to undertake the settlement of the Church's difficulties.

This is a consideration to which sufficient attention has never yet been paid. It is not improbable, indeed, that Lord Melbourne, and his colleagues, felt its force, and that in more favourable circumstances they would have acted accordingly. The timidity and irresolution, however, which, through their want of parliamentary strength had become a general characteristic of their public policy, would not suffer them to grapple with the case boldly and at once, and as its urgency and importance demanded. At first, it is true, the nego-

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tiations of the committee wore a very promising appearance. When the commission of assembly met on the 14th of August, shortly after the deputation returned home, the report of their proceedings that was laid before it was of a nature to encourage the best hopes of a speedy and satisfactory settlement. First, there was produced an official communication from Lord Belhaven, the queen's commissioner to the preceding general assembly, in which his lordship made the following gratifying statement: "I beg leave, at the same time, to mention to you, that I had the pleasure of accompanying the deputation to the heads of the government, and I feel myself entitled to say, that a strong desire was expressed both by Lord Melbourne and Lord John Russell to effect a satisfactory settlement of the question respecting the presentation of ministers; they both expressed their decided intention of making such arrangements as would enable the queen's patronage to be exercised according to the veto-law: and Lord Melbourne stated that he would instruct the lord advocate to confer with the procurator of the church on this most important subject, and to draw up the heads of a bill to be laid before the cabinet as soon as possible, in order that the measure may have full consideration before the next meeting of parliament. I hope this will be, so far as it has gone, satisfactory to the church; it is extremely desirable that as much unanimity should exist as can be obtained, and I hope all parties will see the propriety of uniting, in order to effect a satisfactory adjustment of this very important matter." How little this just and patriotic sentiment of his

Favorable report made by the deputation to the August commission.

Communication from the Queen's Commissioner, Lord Belhaven.

lordship was responded to by the moderate party, or at least by many of its most influential members, will presently appear. The statement made by Lord Belhaven was reiterated in the report of the non-intrusion committee. That report was given in and read by Dr. Chalmers: after noticing the steps taken with a view to obtain the concurrence of members of parliament, and of the patrons themselves, in support of the object which the committee had been appointed to prosecute, it proceeded as follows:—"First, we can state our having received the assurance of the government that they were fully impressed with the importance of the subject, and would give it their most serious consideration, and that they would give instructions to the lord advocate to prepare, along with the procurator, a measure to be submitted to the cabinet. And for those who might desiderate something more definite, and as they perhaps feel, more substantial than this, we have the satisfaction of announcing, if not yet a specific measure by the legislature, at least a specific and most important concession to the views of the church on the part of the government. They have authorized us to state, that in the disposal of those livings which are at the nomination of the crown, its patronage will most certainly be exercised in accordance with the existing law of the church, a resolution which applies to nearly one-third of the parishes of Scotland."

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The report of the non-intrusion committee given in by Dr. Chalmers.

Confirms the statement of Lord Belhaven.

The report further expressed a confident hope, founded, to some extent at least, on facts which had already come to the knowledge of the committee, that the private patrons would not be behind the govern-

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ment; and that, thus freed from the hazard of any new collision, time might be afforded for the friendly interposition of parliament. The committee concluded their report by re-echoing the sentiment of Lord Belhaven: "Let us fondly hope," said they, "all the feelings of party—whether of triumph on the one side because of victory, or of humiliation on the other side because of defeat—shall be merged and forgotten in the desire of a common patriotism; to the reassurance of all who are the friends of our establishment, to the utter confusion of those enemies who watch for our halting, and would rejoice in our overthrow."

Re-echoes Lord Belhaven's patriotic sentiment.

Surely there was nothing unreasonable or extravagant in this appeal. The moderate party disapproved of the veto-law, it is true; but there was nothing in it which troubled their conscience. With them the adoption or rejection of it was simply a question of expediency. They had acted under it without any difficulty for five years already. Their only difficulty in continuing to do so arose out of the Auchterarder decision. But, on the supposition of that difficulty being taken away by the legislature, conscience at least could have nothing more to say upon the subject. And now, therefore, when government was expressing its willingness to introduce a bill into parliament for that very purpose, and signifying its determination to use meanwhile the patronage of the crown in such a manner as to preserve the peace of the church, it might well have been thought that no party within the church itself would incur the heavy responsibility of opposing this patriotic design. Even if the evangelical majority of the general assembly, under whose

Reason why it might have been expected that Lord Belhaven's and the Committee's appeal would have been responded to.

auspices the veto-law was adopted, had stood, in reference to the question of non-intrusion, on the same ground with the moderate minority,—had the question been to the majority as it was confessedly to the minority, a question of mere expediency,—it would still have been nothing more than what was due to a majority, that the minority should have given way. The mind of the church having again and again unequivocally declared itself on the side of the measure of 1834, it would not have been going farther than is the established usage of all public bodies, to expect that the minority should not persist in a factious attempt to defeat the wishes of the church. But the two parties did not stand in reference to non-intrusion upon equal ground. With the minority it involved, by their own acknowledgment, considerations of expediency alone. With the majority, as not only their professions then, but their conduct since have amply proved, it was an affair of conscience. Let the legislature affirm the principle of the veto-law, and not one member of the moderate party would feel himself called upon to leave the establishment. Let the legislature, on the other hand, affirm the principle of the Auchterarder decision, nullifying non-intrusion, and making it the "*statutory duty*" of presbyteries to intrude ministers upon reclaiming congregations, and no honest man in the majority could remain in the establishment. The moderate party knew this well. Dr. Cook, on one occasion, openly proclaimed in the assembly that very view of the position of the two parties in the church in reference to non-intrusion which has now been described. If you succeed,

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The deference which is due by a minority to the majority.

Non-intrusion a question of conscience with the majority, but of simple expediency with the minority, who ought, for that reason, the more readily to have given way.

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Dr. Cook's account of the position of the two parties in reference to the issue of the conflict.

said he, speaking across the house, and addressing the majority,—if you succeed in getting parliament to confirm the veto-law, we stay in. If *we* succeed in preventing the passing of such a measure, you go out.

It is only when contemplated in this point of view that the attempt to obstruct the legislative settlement of the question appears in its true colours. Lord Belhaven, evidently, had not thought it possible that any party would seek to carry matters to the extreme of driving its opponents out of the establishment. And certainly Dr. Chalmers and the non-intrusion committee had no disposition to impute such criminal recklessness to Dr. Cook and his friends. It was not long, however, till indications tolerably explicit were given, that scarcely any hazard to others would be considered too formidable, or any cost too great, to deter the minority in the church from maintaining the hostile attitude they had assumed.

Dr. Cook's unfriendly response to the appeal of the committee.

No sooner had Dr. Chalmers finished the reading of his report than Dr. Cook rose, and in the most unqualified terms, accused the government of disregarding the law of the land. It was in this strain the leader of the moderate party responded to the appeal from Lord Belhaven and the committee in favour of peace. "It had been distinctly laid down, that the law of the land, as determined by the supreme judicatories, conferred certain rights upon patrons, and before those rights were done away, it was requisite to remodel the law of the land. Yet the house had here a communication from her majesty's government, stating that they were determined to carry on their patronage in direct opposition to that law." Dr.

Charges the government with opposing the law of the land.

Cook might as well have said, that because the law of the land, as determined by the supreme judicatories, had conferred on him a right to so many hundreds a year as professor of moral philosophy in the university of St. Andrews, he would be proceeding in direct opposition to that law, if he should, notwithstanding, direct that professorial income, so long as his right to it continued, to be paid back into the funds of the university, or to be handed to the poor of the parish. Grant that, under the Auchterarder decision, the patronages of the crown might now be exercised without the least regard to the feelings and wishes of congregations; the crown was not bound to enforce this offensive and oppressive power. There was nothing whatever in the law of the land to hinder any patron from consulting the congregation, as to the acceptableness of the individual whom he proposed to nominate to the vacant charge. He had only to do this, and nothing more, in order to secure all which either Lord Belhaven or the committee had said concerning the intentions of government. Patronage so exercised would be found in perfect "accordance with the existing law of the church," and that without in the least interfering with any other law whatever.

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Groundlessness of this charge.

Neither the crown nor private patrons bound to enforce all their civil rights.

The rude attack of Dr. Cook therefore, is deserving of notice, not for any force of argument contained in it, but simply for the force and fierceness of that *animus* which it betrayed. The Rev. Mr. Cairns of Cupar expressed his "painful astonishment to hear from the Rev. Doctor (Cook) that he would look upon the conduct of government as a violation of the law of

Rev. A. Cairns replies to Dr. Cook.

CHAP. IX. the land. He utterly abhorred and abjured the feeling which gave rise to such a declaration."

It was not, however, in the commission alone that the "feeling" which gave rise to Dr. Cook's attack upon the government appeared. Scarcely had the report of what took place in the commission passed into the public prints, when Lord Brougham assailed Lord Melbourne upon the subject in the house of lords. Evidently with a view to prejudice the peers against the church of Scotland, and to indispose them to legislate in its favour,—and in this way to deter Lord Melbourne's government from carrying its friendly intentions towards the church into execution, — the ex-chancellor indulged himself first in a tirade against the proceedings of the general assembly, and next against the countenance which both Lord Belhaven and her majesty's government were alleged to have given to the rebellious church. Lord Belhaven, in his letter to the moderator of the assembly, had said, that he was commanded by her majesty "to convey to the moderator her royal approbation of the manner in which all the proceedings of the assembly had been conducted." Lord Melbourne declined to comment upon the conduct either of the queen or of her commissioner, Lord Belhaven. But as to what had passed between himself and the deputation from the church, he said it amounted to this—that the subject which the deputation had brought under his notice "deserved very serious consideration; that therefore the lord advocate would be directed to confer with the procurator of the church, to see whether the matter

Lord Brougham attacks Lord Melbourne in the House of Lords.

Lord Melbourne's reply.

could not be settled,—not with the intention of framing a bill immediately,—not with the intention of pledging the cabinet to proceed to legislate on the subject,—but to show that it was a question that ought to be calmly and carefully considered. As to the crown patronage, all that was stated on that point was, that it would be administered, as it had hitherto been, in conformity with the provisions of the veto act passed by the general assembly in 1834." Obviously no two statements could be in more exact accordance than this of Lord Melbourne and that which Lord Belhaven and the deputation conveyed to the commission of assembly. The committee and Lord Belhaven were both somewhat more minute and precise than Lord Melbourne as to the instructions the lord advocate was to receive,—but neither the one nor the other had said anything to indicate that the cabinet had pledged itself to legislate at all.

Lord Melbourne's statement in exact accordance with that of Lord Belhaven and the committee.

Lord Brougham had probably succeeded in his object, which appears to have been simply to throw difficulties in the way of relieving the church from the rigid and unbending application of those views of the law of patronage, and of the super-eminent jurisdiction of the courts of law, on which his lordship's judgment in the Auchterarder case was founded. But this, though it was mischief enough to satisfy Lord Brougham, was not mischief enough to satisfy another and a far more deliberate and systematic opponent of the church's claims—Mr. Hope, the Dean of Faculty. In the drama of this great controversy, that learned person played many parts. Now he was the eager and influential partizan of moderatism, as an elder in the

The apparent object of Lord Brougham's attack.

The Dean of Faculty a more relentless opponent than Lord Brougham.

CHAP. IX. general assembly. Now he was the professional advocate of its principles at the bar of the civil courts. Now he was the legal adviser of those ministers and licentiates of the church who threw off their allegiance to their ecclesiastical superiors. Now he was the fierce controversial pamphleteer, scattering in high places accusations against the church with his pen, where his voice could not reach. Now he was the confidential correspondent of diplomatists and statesmen,—ever busy in marring any movement that promised to heal the divisions and avert the dangers of the church.

The Dean played many parts in the drama of the conflict.

At the present stage of this narrative, it is to his labours as the controversial pamphleteer that some reference is due. Not long after the commission of assembly already noticed, there issued from the press "a letter to the lord chancellor, on the claims of the church of Scotland, in regard to its jurisdiction, and on the proposed changes in its polity: by John Hope, Esq., Dean of Faculty." In point of bulk, it was a very leviathan among pamphlets,—extending, as it did, to no fewer than 290 pages. It had been far advanced towards completion, it would appear, before the commission met, for the allusion to what occurred on that occasion comes in at the 270th page. His object was evidently the same as that of Lord Brougham—to defeat the church in her efforts to procure a legislative adjustment of her difficulties,—but his means were considerably different. He does not, like the somewhat reckless but by no means malevolent ex-chancellor, complain either of the government or of Lord Belhaven,—but he spares no pains to cover with odium

His letter to the Lord Chancellor.

His object the same as Lord Brougham's, but prosecuted with far greater bitterness.

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the deputation from the church. He boldly asserts, not only without a particle of tangible evidence, but in the face of the evidence which Lord Melbourne's own speech supplies, that Lord Melbourne had distinctly assented to a statement bearing "that the committee had wholly misunderstood and misrepresented the purport of what passed with his lordship." He affirms that the deputation had no authority from Lord Melbourne to make any public statement of what his lordship had said as to the manner in which the crown patronage would be exercised. He assumes, moreover, that Lord Melbourne's understanding of what he did agree to was altogether different from what the deputation reported. He charges it against the assembly's committee, as their unfair and insidious design, that "they plainly *wished to commit the government*. They wished, by the promulgation of what passed, to make it more difficult for this government or any other to exercise the prerogative of the crown. They wished to gain practically the abolition of patronage, 'in all parishes,' by an open announcement of this expression of the intention of government,—an announcement which could only have been made with the view to increase agitation on the subject, and to encourage the people in all parishes, whether the patronage was in the hands of the crown or of private patrons, to exert the power so as to enforce the right of nomination, and to concuss both the crown and private patrons into that result universally." And having made this insolent attack on the honesty and good faith of the committee, the Dean, kindly sympathizing with Lord Melbourne under all

Accuses the committee of misrepresenting what Lord Melbourne had stated.

His offensive insinuation against the committee.

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The Dean's sympathy with the ill-used Lord Melbourne!

these wrongs, adds, and the italics are his own, "*I suspect that Lord Melbourne has been very ill used in this whole affair.*"

Those who study this controversy in after times will hardly fail to think it both singular and unfortunate that an individual capable of making such statements as these should have been permitted to exert any influence whatever on the minds of those who were to deal, whether in the cabinet or in parliament, with the great questions and interests which the controversy involved. As to the offensive imputation attempted to be fastened by the Dean upon the committee, of having made public, without Lord Melbourne's leave and contrary to his design, his statement regarding the patronage of the crown, it may be interesting, though altogether unnecessary, to record here the testimony of one of the most venerable men in Scotland, the Rev. Dr. Gordon of Edinburgh: "I have," he said in a letter to Dr. Chalmers upon the subject, "a most distinct recollection of the last interview the deputation of your committee had with Lord Melbourne on the subject of the government patronages. At the first interview his lordship had expressed himself in such a way as to leave no doubt on the mind of any one of the deputation, that the government had resolved to exercise the crown patronage on the principle of the non-intrusion law; but the deputation did not report that conversation without Lord Melbourne's express leave. It was stated to his lordship at the last interview, that the commission of the general assembly was to meet very soon after the return of the deputation to Scotland,

The Rev. Dr. Gordon's account of what had passed at the interview with Lord Melbourne.

when it was certain that they would be required to give some account of what had taken place in their correspondence with the government; and in immediate connection with this statement, the question was distinctly put, 'Will your lordship authorize us to state to the commission, that the government patronage will be exercised in accordance with the existing law of the church?' To this question Lord Melbourne replied, 'Certainly, most certainly, that the government patronage will be exercised as it has been since the passing of the veto-law.'" This decisive, though in the circumstances superfluous testimony, is contained in a pamphlet which the Dean's letter called forth from the pen of Dr. Chalmers. In the outset of his "remarks,"* and with the characteristic generosity of his nature, Dr. Chalmers had somewhat hastily assumed that in this his controversy with the Dean he had fallen "into the hands of a gentleman and a man of honour," of one who had made no impeachment "of the motives and character of individuals." Under this pleasing impression he had advanced a good way in his reply, when—upon a second and more careful perusal of the letter—he lighted upon the paragraphs from which the foregoing extracts are drawn. "I will not say," observes Dr. Chalmers, "how much I have been shocked and mortified by this painful discovery. The cause is still the same, but the combatant now stands in a new character before me: this casts another light on certain anterior passages of this

Lord Melbourne expressly authorized the deputation to report what he had stated.

Dr. Chalmers' pamphlet in reply to the Dean's letter to the Lord Chancellor.

* Remarks on the Present Position of the Church of Scotland, occasioned by the publication of a Letter from the Dean of Faculty to the Lord Chancellor, by Thomas Chalmers, D.D. and LL.D., &c., 1839.

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Dr. Chalmers withdraws the compliment he had paid to the Dean, and states his reasons for so doing.

pamphlet, in which light—if I had seen them at the time—I should have modified or rather repressed altogether certain anterior passages of my own." After refuting, one after another, the injurious and groundless charges which the Dean's bulky volume had crowded together into one vast, confused and hideous libel upon the doings of the church of Scotland,—"my last, my concluding remonstrance with the Dean of Faculty," said the illustrious author of the "remarks," "is on the score of his unpatriotic, his truly un-Scottish attempt to bring down the established church of his own land in the estimation of our sister kingdom, and to excite against us all that he thinks is most sorely and sensitively repugnant, whether in the nationality or in the episcopacy of England. He has ransacked the whole field of contemplation within our own borders; and seizing on all the hostile arguments, or semblances of arguments, which he could lay his hand upon, he has composed them into a numerous band of stragglers, having certainly more the appearance of a rabble than of a regiment, on the side and for the maintenance of his own cause. But his deadliest attempt by far to obtain for himself, in this our strictly internal quarrel, the vengeance and the victory, is when he calls in foreign auxiliaries to his aid; and with the obvious design of at length superseding all argument by the overwhelming parliamentary influence wherewith he hopes to overbear us. He tells Lords Brougham and Cottenham (p. 123) of a matter far too insignificant for them to hear, that I had branded in the general assembly their reckless disregard for the dearest feelings of my countrymen. They know

His indignant remonstrance with the Dean.

how to make a generous allowance for what is said in the impetuosity of debate, and they also know that there is generosity enough in the hearts of Scotchmen to acquit them—as strangers to all our partialities and habits — of any malignant or hostile feeling towards our nation; but there can be no such apology and no such extenuation for the Dean of Faculty. By the prosecution of Auchterarder, whether instigated or only encouraged by himself or not, a weapon has been put into his hand—which he now wields with all his might—for the destruction of the liberties of the church of Scotland. So long as he addressed himself to the understandings of Scotchmen who do know, it was a legitimate weapon; but now that he addresses himself to the prejudices and antipathies of Englishmen who do not and cannot know, it becomes the act of one who—distrustful of his reasons, yet bent on the extermination of his adversaries—throws aside the armour of persuasion, and would now bring a strength of another kind,—the enforcements and the edicts of irresistible power to bear upon us. The church of Scotland will know how to appreciate the fitness of that man to be the ruler of her ecclesiastical councils who thus would substitute physical for moral force, who brandishes his threats of imprisonment (p. 77) over the heads of her ministers, and telling his party in parliament that what firmness has done before it can do again (p. 285), would re-establish in the midst of us that old policy of absolutism and violence which, if he indeed effectuate, will unpeople the church of her best clergymen, and alienate all the

Unfairness of the Dean in striving to stir up the prejudices and antipathies of Englishmen against his opponents and their cause.

The consequences that would flow from the Dean's counsels being followed.

CHAP. IX. best and worthiest of our families from her tabernacle."*

The prediction of Dr. Chalmers has been literally fulfilled.

It was the voice of a prophet that uttered this solemn warning; and the sequel will show, that however much it was despised by the Dean, and by those who suffered themselves to be guided by his counsels, the prediction was strictly and literally true. It will be well if another warning, pronounced upon the same occasion, have not an equally exact fulfilment. If it fail,—and God grant that it may fail—it will be due to other causes than to the success of the Dean's efforts to hinder the recognition of the church of Scotland's claims. He, and the high legal and political authorities to whom he addressed his appeal, seemed to care for nothing and to consider nothing but the upholding, in all its offensiveness of an obnoxious statute,—a statute brought in at the first by an act of the basest treachery, and now interpreted with a rigidity and a sternness unknown before. In comparison with this, the sacrifice that must be made of the moral and spiritual interests of the people, in deference to an act whose history was equally a disgrace to the state and a reproach to the church, seems to have been treated by these men as a matter of very inferior concern. And it was in reference to these men, and to the fatal career they were pursuing, that near the close of his pamphlet, Dr. Chalmers broke out in this overwhelming burst of mingled indignation and grief,—"We have only to say to such and to all who have never

The Dean and his friends seemed to care for nothing but upholding a law that was a disgrace to its authors.

* Remarks, &c., pp. 95—97.

Dr. Chalmers tells the Dean and the Peers what mischiefs they are preparing for the country.

once grappled with the realities of this great question, —whether he be a peer in his lordly hall, or a lawyer in his writing chamber,—that if they will not step forth into the living world and thus engage with the *ipsa corpora* of the subject, then from that world there is a reaction awaiting them, which, deaf though they have hitherto been to a coming, will give them, and that full soon, the sense and the experience of a present danger. A people abandoned to irreligion will not remain inactive; but with the restraints of conscience and the fear of God unfelt, the restraints of human authority will soon be cast away. There is thus at the bottom of our social and political edifice a smouldering fire, which, if not met by the emollients of care, and kindness, and christian instruction, will break forth with the weight of a volcano, and upheave into fragments the whole system and structure of society. Men have broken loose from all those ancient holds which kept the community together; and there is now a waywardness in almost all spirits, which nothing, nothing but the education of principle can stem. The elements of a sweeping anarchy are busily at work; and at the bidding of a God of judgment is it ready to go forth on its errand of desolation. And should the revolutionary torrent once set in, the parties to whom we have now referred, immovable in the obstinacy of their own prejudices, will yet be driven like chaff before the wind, in the moral hurricane then abroad over the land,—the grandee unseated from his now towering pre-eminence; and the lawyer finding his munition of points and precedents to be frail as cobwebs in the breath of the popular indignation. It is now in

In destroying the Church's influence with the people, and hazarding its overthrow, they are leaving society to break loose from all moral and religious restraints.

CHAP. IX. our power to disarm, and to pacify and to quell this labouring fermentation. The people are accessible, most hopefully accessible, through the medium of both their gratitude and their conscience. Examples of this are multiplying every day, and in sufficient number too, to warrant the conclusion, that if churches were enough multiplied, and parishes were enough subdivided, and ministers enough active and conscientious, —the breath of a new spirit would be infused into the hearts of men, and the fierce and fiery elements which are now at work would soften and give way before the omnipotence of christian charity."

A different and a wiser policy might yet avert the storm.

While Dr. Chalmers was thus nobly, though in vain, striving to find a way for his cause to the understandings and consciences of men in power, by the eloquent and powerful pleadings of christian patriotism, his antagonist, the Dean, had meanwhile, by means altogether different, been doing his best to embroil in fresh conflicts the courts of the church. One of his earliest experiments in this field was the case of Lethendy. That parish, situated in the presbytery of Dunkeld, happened, in 1835, to have for its incumbent an infirm old man of the name of Butters. The crown, as patron of the parish, appointed, in the course of that year, a certain Mr. Clark to be the old minister's assistant and successor. This Mr. Clark was in due course, and as the poor creature's subsequent career abundantly proved, most heartily and justly vetoed by the congregation.* Rejected in consequence by the presbytery, he appealed to the

The Dean was meanwhile preparing new conflicts for the Church.

The case of Lethendy.

* Mr. Clark, subsequently to the disruption, was libelled, and deprived of his license for drunkenness!

superior church courts; and, in the assembly of 1836, the sentence of the presbytery was finally confirmed. Aquiescing apparently in the decision of the assembly, Mr. Clark was no more heard of till March, 1837, when he raised a civil action against the presbytery, probably under the same advice and influence which about that period had induced Mr. Young of Auchterarder to follow a similar course. The action was brought into court in November of the same year, and a few days thereafter Mr. Butters died. Mr. Clark had never received from the crown any regular deed of presentation. The writ issued by the crown in his favour in 1835 was that which is commonly called a sign-manual, by virtue of which, in the event of his being inducted as assistant and successor and surviving the existing incumbent, he was vested in a right to the temporalities of the benefice. According to the law and invariable practice of the church, the induction of an assistant and successor was at the absolute discretion of the church. Apart altogether, therefore, from the barrier of the congregational veto, the simple fact that the presbytery had declined to proceed with the settlement would have been held, down till 1838, to be conclusive against his title to either benefice or cure, and that whether the presbytery had assigned a reason for their refusal to proceed or no. Accordingly, when Mr. Butters died, the crown holding the sign-manual formerly given to Mr. Clark to be now null and void, in consequence of its not having taken effect during the life of the late incumbent, issued a formal deed of presentation in favour of another individual, Mr. Kessen. This presentation

Civil action brought against the Presbytery of Dunkeld by Mr. Clark in 1837, on account of his rejection in 1836.

The Crown, holding Mr. Clark as set aside, issues a presentation in favour of Mr. Kessen.

CHAP. IX. having been laid before the presbytery of Dunkeld, the presbytery took steps to prosecute Mr. Kessen's settlement in the usual way; and, with the exception of the single act of ordination and induction, all the other steps in the process had been already gone through, when Mr. Clark came forward with an interdict from the court of session, to arrest the performance of that purely spiritual deed. The presbytery having reported this extraordinary interruption to the assembly of 1838 and craved their advice, the case came on for discussion in the commission of assembly on the 30th of May. The procurator for the church moved in substance, that as ordination and induction to a pastoral charge are matters spiritual, and exclusively of ecclesiastical cognizance, the presbytery of Dunkeld be instructed to complete the settlement of Mr. Kessen, and to report their diligence therein to the commission at its meeting in August. The church did not pretend by this decision to say whether Mr. Clark's sign-manual or Mr. Kessen's deed of presentation was the valid legal instrument for giving a title to the benefice of Lethendy. But it had never been dreamt of, in any former instance of competing presentations or presentees, that the church courts were bound to wait and to keep the spiritual cure vacant until the civil courts, after, it might be the litigation of years, should have determined the question of civil law. It had always been held, and the doctrine had been repeatedly acted on, that if the church chose to take the risk of settling a minister who might turn out in the end not to have the legal title to the benefice, she was perfectly free to do so. In point of

When Mr. Kessen's settlement was about to be completed, Mr. Clark obtains an interdict to stop the ordination.

The Presbytery ordered, in May 1838, to proceed with Mr. Kessen's ordination notwithstanding.

fact, so very recently as the year 1837, a case exactly in point had occurred. It was the case of Cadder. In that case the patronage was in the hands of the heritors and elders of the parish. There were two candidates for the charge, and each had a certain number of the patrons on his side, and each claimed the majority. A civil action was the consequence, and a prospect of long delay. The presbytery exercised its own judgment in the matter, selected one of the candidates, and proceeded with his settlement. The disappointed candidate appealed to the assembly, craving that, till his civil action should have been decided, the settlement ought not to be allowed to proceed. The assembly dismissed his appeal; and, on the motion of Dr. Cook, the moderate leader, instructed the presbytery of Glasgow to settle the rival candidate. The presbytery of Glasgow proceeded accordingly; and, at the moment when they had reached the last step in the process, and were preparing to appoint the ordination and induction, a messenger-at-arms entered the court and handed to the moderator what he called an interdict from the civil court against their going further in the case. Principal M'Farlan, the senior member of the presbytery, and one of the most zealous and influential members of the moderate party in the church, took the document in his hands, and having examined it, he rose and said, it was an interlocutor of Lord Corehouse, in a bill of suspension and interdict at the instance of Mr. Young of Chryston. The principal said, "he would read the interlocutor, which was merely appointing answers to be lodged within four-

A similar case had occurred in 1837.

In that other case,—the case of Cadder,—Dr. Cook moved the sentence instructing the Presbytery to proceed.

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Principal M'Farlan's speech in the Presbytery of Glasgow in reference to the threatened interdict in the Cadder case.

teeen days; but had it been an interdict, as it was said to be, it could not prevent the presbytery from carrying their previous resolution into effect. No man had a greater respect for the judges of the land than he had; but he could not forget that he was a minister of the church of Scotland, which acknowledged no other head than the Lord Jesus Christ, and which disallowed all interference with their ecclesiastical proceedings. They could acknowledge no other laws than the laws of Jesus Christ." *

It is true that at a later period of the controversy, when erastianism had become the order of the day with the courts of law and with men in power, the Principal altogether abandoned the ground on which, in the Cadder case, he so firmly took his stand. Not, indeed, that he ever attempted either to explain or to repudiate the sentiments which in that case he had avowed. He simply let them slip. But this serves only the more clearly to show, what was amply confirmed by the similar conduct of many other prominent members of the moderate party, that the yoke of civil supremacy in matters spiritual, to which they learned in the end so submissively to bow, was unheard of in the church of Scotland since the times of the Stewarts, and in the outset of the disruption controversy would have been considered monstrous and intolerable even by moderatism itself.

The Principal's after conduct as to that case.

The motion of the procurator, instructing the presbytery of Dunkeld to proceed with Mr. Kessen's settlement, was carried with only two dissenting voices.

* Scottish Guardian, May, 1837.

The interdict which had been obtained by Mr. Clark was found, it would appear, by his legal adviser not to bear with sufficient precision upon the order thus issued by the commission of assembly. That order directed the presbytery to proceed with the settlement of Mr. Kessen upon the call he had received from the congregation. The interdict forbade their proceeding upon Mr. Kessen's deed of presentation. A new or supplementary interdict was accordingly applied for and granted, to prohibit the presbytery from settling him in respect of the call of the congregation, or on any other ground whatever,—running, in short, almost in the very words of the commission's sentence. The presbytery declined to make any appearance in the civil courts, for the purpose of having the interdict removed. To have gone into these courts, where no civil interest whatever was concerned, would have been to appear at least to acknowledge the competency of that jurisdiction which in granting such an interdict they had assumed. The presbytery, however, wisely resolving to take the advice of their proper ecclesiastical superiors in a matter so serious, and hoping that this delay might lead to the withdrawing of the interdict, referred the whole matter to the commission in August. The commission having met, and the procurator for the church having explained how matters stood, — Mr. Dunlop rose, amid profound silence, and said—"that a clear and direct collision had now taken place between the church and the civil court. The commission, in May last, had in this case resolved that induction into a pastoral charge was a purely spiritual act, in regard to which the church

Mr. Clark obtains a new interdict, directed against the execution of the sentence of the Commission of Assembly in May.

The case brought up to the Commission in August for advice. Mr. Dunlop's speech.

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A case of direct collision between the civil and ecclesiastical courts.

alone had jurisdiction, and had directed the presbytery of Dunkeld to proceed to the admission of Mr. Kessen to the pastoral charge of the parish of Lethendy, refraining from any interference with the benefice. The court of session had, however, stept in, and prohibited the presbytery from carrying that sentence into effect." Mr. Dunlop went on to expound, with great clearness and force, the consequences of giving way to this usurpation of the courts of law,—shewing that if yielded to, it would involve nothing less than an obligation to take, not the word of God or the standards of the church for their rule in transacting matters spiritual, but the decisions of a civil tribunal. He illustrated his argument by a reference to the law of marriage. "Marriage was undoubtedly a civil contract, and came under the jurisdiction of the civil court, as to the civil rights and interests thence arising; but it was also a religious as well as a civil contract, and the confession of faith contains certain laws shewing the degrees within which marriages between relations are sinful; and according to it, no one may marry the sister of his deceased wife. Now it was well known that many lawyers had great doubts as to whether this was illegal, and probably if a case of this kind were to be brought before the civil court, the marriage would be declared perfectly legal,—but would the church in that case yield their views of the sinfulness of the union, in submission to the civil court? Were they to take the interpretation of the court of session as the law of God?" Mr. Dunlop took for granted that the church was not prepared to subscribe to the doctrine of the infidel Hobbes, and to

Mr. Dunlop illustrates the usurpation now attempted by the courts of law, by a reference to the law of marriage.

resolve all morality into the law of the land. "He was aware of the risk to which the presbytery might be exposed by obeying their ecclesiastical superiors, should Mr. Clark dare to apply to the court of session to imprison them for so doing, but they had a duty to the church to perform, and he felt assured that, while the members of commission would themselves willingly submit to the same risk, the presbytery of Dunkeld would equally readily perform their duty, at whatever hazard; although, in truth, they incurred as great risk by disobeying the church courts, thereby exposing themselves to deposition, as in obeying the civil courts in a matter entirely beyond their province. It was, however, the duty of the commission to take upon themselves any responsibility which it was competent for them to do: and although they could not appoint a commission to execute the sentence, they could give the presbytery the full sanction of their authority." Mr. Dunlop accordingly moved that the presbytery be appointed "to meet at Dunkeld, on Tuesday the 21st of this current month of August, and take immediate steps for the ordination of the said Mr. Andrew Kessen," and to "proceed therewith without delay." The Rev. Hamilton Buchanan, of Strathblane, and the Rev. Dr. Brunton, both of them members of the moderate party, spoke and voted in support of Mr. Dunlop's motion,—Dr. Brunton taking occasion to express himself in the following terms:—"He regretted that the necessity of deciding in this case had been thrust upon them; but still he felt that the necessity existed. They had instructed the presbytery to do a purely spiritual act—to ordain Mr. Kessen as minister

The Presbytery must do its duty at all hazards.

The Commission would share the responsibility with the Presbytery.

Mr. Dunlop's motion, enjoining the Presbytery to proceed, supported by the Rev. H. Buchanan and Dr. Brunton,—both members of the moderate party.

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of the parish, and for this they were interdicted. It might happen that the temporalities of the parish would not go to the minister in this case, but he thought that was exceedingly unlikely. He for one would never consent to delay,—nor would he consent to go into a civil court to plead this cause. He knew his own province, and on that province he would stand or fall." Mr. Dunlop's motion was carried, upon a division, by fifty-two to six,—there not being one single minister in the minority,—a fact this which very strikingly confirms the statement already made —that the right of control now claimed by the courts of law over the courts of the church, was a "new thing under the sun," and a thing regarded in the earlier stages of the controversy with all but universal astonishment and alarm. The commission further directed that, unless Mr. Clark should withdraw his civil process, the presbytery should serve him with a libel, and proceed against him for the ecclesiastical offence of attempting to bring the internal government and discipline of the church under the control of the courts of law.

Mr. Dunlop's motion carried by fifty-two to six,—not a single minister voted in the minority.

The further history of this case is both curious and instructive. On the 21st of August, the presbytery of Dunkeld met, as appointed by the commission. An agent appeared on the part of Mr. Clark, and craved permission to read an opinion of the Dean of Faculty. The permission was granted, and the Dean's thunder was straightway heard rolling over the heads of the presbytery. The document assured them "the expectation that the supreme civil court will allow its interdict to be set at defiance, is the most vain and idle

Remaining history of this case, curious and instructive.

The Dean's legal opinion read to the Presbytery by Mr. Clark's agent.

with which parties can delude themselves:" * * * and that "the members of presbytery will most infallibly be committed to prison, and most justly, for an offence of a most grave nature, and the more aggravated in proportion to the status of the parties by whom it is committed." The Dean, in this famous manifesto, was further pleased to inform them that "the commission of assembly," which from time immemorial had been accustomed to transact a large part of the business of the church, and the validity of whose acts was never challenged before nor since, "was a body not recognized as possessing any power of government, or discipline, or jurisdiction over presbyteries, by any statute or law of the land." Further still, he would have them to know, that it was as a "British subject," and not simply as a member of the church of Christ, that Mr. Clark held his license as a preacher: he was "legally entitled to his license." And by way of crowning the climax of this bold and barefaced erastianism, the Dean's "opinion" laid it down, that "every man in this country who adheres to its doctrines, is entitled to be a member of the established church." In other words, a man's right to the offices and ordinances of the church, stood on the same footing with his right to any civil privilege or emolument: and might be enforced by the common penalties of law! Such were the Dean's notions of a church,—of that church, multitudes of whose ministers and members had, in other days, been contented to suffer imprisonment, exile, and death, rather than acknowledge, by word or deed, that the civil power had any jurisdiction over its spiritual affairs! Nor

The Dean warns the members of Presbytery, that if they resist they will be committed to prison.

He tells them Mr. Clark held his license as a "British subject."

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The Dean was destined to bring out the fact that the martyr spirit was not extinct in the Church of Scotland.

was the spirit of those martyrs for the crown rights of Christ, as the sole Head and King of the church, extinct in the nineteenth century: and of this fact the Dean was destined to be the occasion of bringing forth ample and conclusive proof. It is often the lot of the persecutor to develope the brightest graces of the church. It is the concussion of his stroke that makes her hidden fires flash forth. Let not this praise be denied to the Dean.

This was not the only instance in which Mr. Hope sought by such arts to shake the constancy of those who were maintaining the independent jurisdiction of the church. "I suppose," said he in his letter to the lord chancellor published the following year, "by this time the church perceive that the violation of another interdict is a matter which they had better not embark in." "To me," observed Dr. Chalmers in his reply, "there is something most coarsely, and revoltingly untasteful in this bravado. It is like the act of an executioner making demonstration with his rope, in the eyes of his victim, before he fastens it on: or of the gaoler, in like manner, brandishing his keys in the face of those whom he is dragging to confinement. My only reply to this insulting bravado is, that should he dare to put it into execution, he will find that he has completely miscalculated the strength of principle which exists in the bosoms of Scottish churchmen."* It has always been the blunder of a certain class of politicians, to leave out the element of principle altogether in estimating the forces they have

The comment of Dr. Chalmers on the Dean's threats of imprisonment.

* Remarks, p. 96.

to contend with in the prosecution of their selfish schemes: and how often has that forgotten element turned all their counsels to foolishness! There was enough of it found in the presbytery of Dunkeld to have warned any one, not blinded by prejudice and passion, of the folly of attempting to carry it over conscience by the mere terrors of brute force. Such rude weapons as the Dean employed to deter that presbytery from the discharge of its duty, served only to throw it back on that source of strength to which Christ's servants betook themselves of old, when they too had been commanded to obey God rather than man. "Now, Lord, behold their threatenings, and grant unto thy servants that with all boldness they may speak thy word."

The Dean's miscalculation.

Disregarding everything but the imperative call of duty, the presbytery calmly proceeded to execute the sentence of the church. When the day for Mr. Kessen's ordination arrived, the Rev. Michael Stirling of Cargill, the senior member of the presbytery, in a speech full of moral dignity, addressed his brethren. Referring to the fulminations of the Dean contained in the paper read at a former meeting, by Mr. Clark's agent, Mr. Stirling said, "He had not an opportunity of seeing the paper, and had only heard it cursorily read; but the object of it seemed to be to impress upon the members of presbytery, that if, on the one hand, they dared to execute the orders of the commission they would infallibly be subject to imprisonment, and other pains and penalties; but if, on the other hand, they refused to obey their ecclesiastical superiors, and were afterwards deposed by the general assembly

Firmness of the menaced Presbytery, and the speech of the Rev. M. Stirling of Cargill.

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for contumacy, the court of session would, notwithstanding, maintain them in the full enjoyment of their stipends and emoluments. He could not find words too strong to express his indignation at such a mode of procedure; he had not heard nor read of such an insult being offered to any lawfully constituted court since the worst days of the Charleses and the Jameses. It was, in fact, a deliberate attempt to concuss the presbytery by putting them in bodily fear, and by threats and intimidations to compel them to act against their consciences; but he knew there was a spirit in the presbytery of Dunkeld that would despise such menaces, and he trusted that, by God's help, they would do their duty whatsoever trouble or persecution may arise." Mr. Stirling reviewed the statutes ratifying the spiritual liberties of the church, and shewed that the court of session had no more right to interdict a church court in the exercise of its proper functions than the general assemby had to interdict the court of session. "But it is said," continued Mr. Stirling, "where is the necessity of thus struggling for the spiritual independence of the church? cannot you have patience and wait a few years till the civil questions be finally decided in the house of lords; till you see who is to have the stipend, and then you will be better able to determine whom you should invest with the functions of the ministry." To this wretched argument, that would treat as a thing of nought the spiritual interests of the parish and care only for a question of money, the speaker made this noble reply, —We cannot wait, because of "the spiritual destitution of the parish of Lethendy; it had been already

Mr. Stirling meets the Dean's threats with an indignant rebuke.

His answer to the question, why will the Presbytery not wait till the lawsuit is settled in the civil courts.

nearly two years without a minister, the sacrament of the supper had not been dispensed for more than two years; there was no pastoral superintendence, there was not even an elder of the church whom the sick and dying might send for to pray over them, and give them comfort and instruction in the name of the Lord." * * * "Was this a state of things that ought to be allowed to continue? and were they to be interdicted from giving the word and bread of life to this destitute people, merely that Mr. Clark might have more facility in making out his claims to the stipend? They had been charged by their adversaries with adopting the errors of popery, and setting up pretensions more extravagant than those of the church of Rome; for his part, in all the system of spiritual tyranny erected by the Romish antichrist, he recollected nothing more hideously revolting than the power which was assumed of laying a parish, or perhaps a kingdom, under an interdict, suspending thereby the public worship of God, prohibiting the administration of religious ordinances, and all for the sordid purpose of promoting some scheme of worldly ambition or filthy lucre."

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The spiritual destitution of the parish will not allow them to wait.

If anything could have added to the force and impressiveness of this truly admirable address, it was the known mildness and unobtrusive modesty of the man who uttered it. An entire stranger to controversy, taking no part in the public discussions of the church, occupying himself with the work of the ministry in a remote country parish, nothing but the urgency of the occasion could have induced him to place himself in an attitude of such uncompromising

Mr. Stirling not used to controversial discussions.

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resistance to the civil power; and the fact, that far away from the arena of the great conflict which for some years had been going on in the high places of the field, quiet country ministers were found so thoroughly intelligent as to all which that conflict involved, and so completely prepared to face even its most formidable issues, might have sufficed to warn the church's opponents of the danger of driving her to extremities. It might have served to suggest to them that this was not unlikely to prove one of those cases in which victory is more dangerous than defeat.

The value of his testimony, and the lesson it should have read to opponents.

The ordination and induction of Mr. Kessen to the pastoral charge of the parish of Lethendy, having been consummated by the presbytery, a complaint was lodged against them by Mr. Clark, for violation of the interdict, and they were summoned to appear at the bar of the court on the 14th of June, 1839. Yielding, of course, to the compulsion implied in this summons,— and willing to suffer, though they had refused to sin,—the presbytery appeared accordingly, and an eyewitness has recorded this graphic description of the scene:—"Since the days when ministers and people were in use to be brought up for fine and imprisonment for refusing to acknowledge the supremacy (in matters spiritual) when claimed for the king, no such scene had been witnessed in our supreme courts.

Mr. Kessen ordained, and the Presbytery dragged, in consequence, to the bar of the Court of Session.

"In front, elevated on their bench, clothed in their robes of human authority, and invested with the stern insignia of secular power, sat the judges, twelve in number. Opposite *stood* another court—a court of

The scene in the civil court.

Christ—called to their bar for executing the spiritual functions conferred by the Lord Jesus on His church, in ordaining a brother to the holy ministry, and entrusting him with the spiritual charge of a portion of Christ's flock, in disregard of the mandate of the judges of a secular tribunal, who had no commission to exercise rule in the house of God. The members of this court of Christ, in number eight, knew well that the judges before whom they stood had the power to consign them, during pleasure, to a jail; leaving their homes desolate,—and more painful still, their people without the ordinances of religion. They also knew that a single word of acknowledgment of the court's power, and of regret at having disregarded it, would have secured them at once from any hazard. Otherwise the temper of the court afforded apparently but little hope. CHAP. IX.

The Presbytery accompanied to the bar by a few of the ministers of Edinburgh.

"A very few of the most respected ministers of Edinburgh and its neighbourhood,—sufficient to countenance their brethren, but not to have the slightest appearance of a bravado,—attended them to the bar. First one, and then another, and then a third, followed them. A frown darkened the brow of the court; but the crowd closing, as if all had come in, nothing was said. After a moment's pause, the crowd opened again, and yet another entered. It was Dr. Gordon. No sooner was his noble and venerable head seen emerging from the crowd at the end of the bar, than the smothered feeling broke forth, and a proposal burst from the bench to turn out those clergymen from the bar; but an indignant and solemn remonstrance from Lord Moncrieff checked this attempt.

The proposal of certain judges to turn out those ministers from the bar, indignantly put down by Lord Moncrieff.

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"The ministers were then called upon for any statement they had to submit to the court. With a demeanour touching from its perfect simplicity, which indeed characterized the bearing of them all, the Rev. Mr. Stirling, of Cargill, the senior minister, read the following statement:—'My lords, we appear in obedience to the citation of your lordships,—inasmuch as we hold it to be the duty of all subjects to render their personal compearance when cited by the civil courts; and being deeply impressed with the obligation of giving all honour and reverence to the judges of the land, we disclaim any intention of disrespect to the court in what we have done. But in ordaining to the office of the holy ministry, and in admitting to the pastoral charge, to which, in our proceedings complained of, we strictly limited ourselves, we acted in obedience to the superior church judicatories,—to which, in matters spiritual, we are subordinate,—and to which, at ordination, we vowed obedience.' Mr. Kessen read a similar statement; and the court adjourned the matter for four days, to consider of their sentence." It is commonly understood that five of the judges voted in favour of a sentence of imprisonment, and six for the more lenient measure of a rebuke; and that the lord president did not vote at all. The rebuke was accordingly given on the day to which the court had adjourned the case; and with a threat of imprisonment against any presbytery that should be found chargeable with a similar offence, the presbytery of Dunkeld were dismissed from the bar.

Mr. Stirling's statement on the part of the Presbytery.

Mr. Kessen's statement.

The sentence of the court.

As they withdrew, many admired and even envied the clergymen: none either envied or admired their

judges. Law is never less venerable than when it is turned into an instrument of oppression,—nor authority less august than when it is overbearing conscience,—nor power less imposing than when it is trampling on the weak. Such exhibitions are far more dangerous to the peace of society than the *emeutes* of chartism: and no well-wisher of his country could desire to see the experiment repeated of dragging ministers of Christ and men of God before the public tribunals, to be threatened with the terrors of a jail for the apostolic crime of obeying God rather than man. It certainly was not fitted to diminish the moral disgust which this judicial process was too well fitted to awaken, to find that, by the decree of the court of session, the members of the presbytery of Dunkeld who had concurred in the settlement of Mr. Kessen were amerced, in addition to their own expenses, in costs to the amount of £346,—a sum so enormously disproportioned to the legal procedure in the cause as to have been manifestly intended merely for the paltry purpose of harassing the parties concerned. Nor was this all, or nearly all, which these conscientious clergymen had to bear in the shape of pecuniary oppression. Mr. Clark having subsequently raised an action against them on the plea of their having illegally and wrongously excluded him from the cure of the parish of Lethendy, he obtained a decree for damages to the extent of several thousand pounds; and, to render unnecessary any further reference to this celebrated and every way disgraceful case, it only remains to mention the instructive fact, that when the disruption had at length removed the obstacle to Mr. Clark's admission

Reflections on this scene.

Legal expenses accumulated against the Presbytery.

Mr. Clark's action of damages against the Presbytery: and his subsequent history.

CHAP. IX. to the charge, the presbytery of the establishment, instead of completing the process of his ordination and settlement, found it necessary to libel him as a drunkard, and to deprive him of his license. And this was the man, for refusing to accept whom as their pastor a congregation were to be tyrannized over in the name of law and justice,—the man, for refusing to commit to whom the office of the holy ministry and the care of immortal souls, a presbytery were threatened with the terrors of imprisonment, and harassed with fines heavy enough, had not the burden been borne by the church at large, to have consigned some at least of its members, and their families along with them, to beggary and ruin.

Such was the individual on whose account a Presbytery was harassed with fines and threatened with imprisonment.

The year 1839 was signalized by yet another case of which some notice must now be taken, and which, both in itself and in its consequences, proved to be of still greater moment than that of Lethendy. It was the case of Marnoch, in the presbytery of Strathbogie. The district included within this presbytery belongs partly to Aberdeenshire and partly to Banffshire. Under the influence of the popish Earls of Huntly, whose castle was situated in the heart of the district, the inhabitants to a large extent adhered to the church of Rome for a considerable time after the yoke of its superstition and tyranny had been indignantly cast off by the great body of their fellow-countrymen. Nor was their protestantism, when they did embrace it, such as to effect any great improvement in their religious condition. It was for the most part the protestantism of Scottish prelacy,—a system, in former times at least, nearly as devoid of evangelical

The case of Marnoch in the Presbytery of Strathbogie.

Religious character of the district.

truth and spiritual religion as popery itself. When presbytery at length made its way into this cold and unkindly region, it contracted not a little of the frigidity and lifelessness of its predecessors. Moderatism found there a congenial climate and soil; and in so far at least as the clergy were concerned, had still the ascendency, at the period when the Marnoch case arose. It may, indeed, be doubted whether any other part of Scotland could have produced, in the nineteenth century, a district where clerical moderatism was so undiluted and entire as in the majority of the presbytery of Strathbogie. CHAP. IX.

History of the Marnoch case.

The parish of Marnoch in that, now famous, presbytery, having fallen vacant in 1837, the trustees of the patron, the Earl of Fife, presented to it a certain Mr. John Edwards, who having officiated as assistant to the former incumbent for a period of three years, was well known to the parishioners. So little had they relished his services in that subordinate capacity that, at their urgent request, his employer had removed him from the situation altogether. It was not, therefore, to be wondered at, that when the representatives of the patron, misinformed, it is believed, as to the facts of the case, made so injudicious a selection, the people should have felt themselves seriously aggrieved. When the time came for letting their voice be heard, agreeably to the provisions of the act of assembly 1834, they were all but unanimous in rejecting him. Only one parishioner and three out of thirteen heritors signed his call, while of 300 male heads of families communicants, 261 tendered their solemn dissent against his settlement. The solitary

Mr. Edwards the presentee to Marnoch, had been removed from the assistantship of the previous minister.

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One parishioner out of 3,000 signed his call.

bona fide parishioner who may be said to have monopolized in the call the representation of a parish of 3000 souls, was Peter Taylor, the keeper of the public house at which the presbytery were wont to dine. As the case proceeded, all sorts of obstructions were put in the people's way by the majority of the presbytery. The assembly of 1838 having, however, ordered them to reject Mr. Edwards, agreeably to the existing law of the church, he was rejected accordingly.

Rejected by the Presbytery, Mr. Edwards appeals to the Courts of law.

But meanwhile Mr. Edwards, encouraged by the Auchterarder decision, carried his case into the court of session, and in the month of June, 1839, he at length obtained a decree holding the presbytery still bound to take him on trials. The commission of assembly, only a few weeks before, had expressly prohibited the presbytery from taking any steps towards the settlement of Mr. Edwards, and had instructed them to report to a subsequent meeting of commission any change of circumstances that might arise. The event sufficiently shewed how necessary this precaution had been. Bent on consummating the act which their ecclesiastical superiors had forbidden, the

The majority of the Presbytery bent on intruding him into the parish.

majority of the presbytery endeavoured to hinder the sentence of the commission from being served upon them at all. Instead of waiting till their next ordinary meeting—at which the commission's sentence would, as matter of course, have been placed upon the table—they laid their plans to hurry through the settlement before the opportunity should arrive of making them judicially cognizant of that sentence, and before any superior church court should have time to arrest them in their rebellious career: with

this view they signed a requisition to the moderator to summon a meeting *pro re nata*, as it is technically called, to consider the claim of Mr. Edwards to be taken on trials. Had the moderator complied with this requisition the effect would have been to exclude all consideration, or judicial knowledge even, of the sentence of commission at the meeting in question; as, according to the law and practice of the church, nothing can be brought forward at a *pro re nata* meeting, save what is specified in the circular of the moderator appointing the meeting to be held. It so happened, however, unfortunately for the designs of the majority, that the moderator for the time being was a member of the evangelical party and a man of great prudence and firmness. Knowing well the sinister purpose of the requisitionists, he took care, first, to introduce into the notice of the business for which the meeting was called, not merely Mr. Edwards' claim to be taken on trials, but also the sentence, upon that subject, which had been pronounced by the commission of assembly; and, second, to appoint the day of meeting so near to the next quarterly meeting of the commission as to render it impossible for the majority of the presbytery to complete their intended treason before that superior court should have had time to interfere. Finding their movements thus effectually counter-checked, their next step was eminently characteristic of the men, and altogether worthy of their cause. When the day fixed by the moderator, the 12th of November, arrived, the very individuals who had signed the requisition to have the meeting called, determined to break it up without

Their requisition to the moderator to call a meeting of Presbytery *pro re nata*.

The moderator calls the meeting, but in such terms and at such a date as to defeat their design.

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They in consequence break up the meeting without allowing anything to be done.

allowing it to proceed to business. Such conduct was, of course, in gross violation of both law and decency, but it was their only means of still evading the serving upon them of the prohibitory sentence of the commission of assembly; and since, in the extravagance of their tyranny and recklessness, they refused to allow the minority to record any dissent against their outrageous procedure, the moderator had no choice but to take a protest in the hands of a notary; and it was under the sanction of that protest he brought the whole affair, by petition and complaint, under the notice of the commission, at its stated meeting on the 20th of the same month. At the commission Mr. Dunlop moved, that "this petition and complaint should be served upon the presbytery at their stated meeting, which he understood would be on the 4th December next, and that, at the same time, they should be served with a copy of the deliverances of the assembly and the commission, in order that they might have no pretence for pleading ignorance of their duty." He further proposed, "that the presbytery should be enjoined to appear either personally or by procurator to answer in the cause at the meeting of the commission on the 11th December next." Principal M'Farlan concurred in the motion, which was adopted unanimously. The conduct of the presbytery did not find in the commission even one solitary defender.

Their conduct considered at the Commission in 1834.

The Presbytery summoned to an adjourned meeting of Commission, to be held on 11th December.

When the 4th of December arrived, a scene was exhibited in the presbytery to which no description can do justice. Under the guidance of its reckless majority, the parishioners of Marnoch who appeared,

by their agent, to protest against the intrusion of Mr. Edwards, were not allowed to be heard,—were not permitted to get even the fact of their compearance entered on the record. The rudeness and violence which characterized their conduct and language on the occasion, afford the best possible illustration of what the church had to expect at the hands of these rebellious presbyters, unless some very decided course should be taken with them.

The outrageous conduct of the majority of the Presbytery at their meeting on 4th December.

The commission met, by adjournment, at Edinburgh, on the 11th of December, in the Tolbooth church. The attendance was unusually large. In ordinary circumstances it is not without some difficulty that the legal quorum of thirty-one can be got together: but the interests involved in the Marnoch case were too grave to be treated with indifference. The church was now called upon to show whether its independence resolution of the year before was a mere empty bravado, or the deliberate and solemn dictate of a sense of duty to Christ, to his people, and to his cause. A majority of the members of the presbytery of Strathbogie had declared their determination to violate the laws of the church, and the express commands of their ecclesiastical superiors, by taking their orders in a matter spiritual from the civil court. Either that determination must be arrested, or the church must declare her government to be at an end. It was, therefore, a vital question that was now at issue, and the crisis was thoroughly understood and appreciated by those who had the conduct of the church's affairs. Seldom did a feeling of deeper seriousness pervade their minds than on the eventful day when this commission con-

Large attendance of members at the adjourned meeting of Commission.

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The case evidently destined to complicate the difficulties of the Church.

vened. It was impossible not to foresee how grievously the case that was to come before it, might complicate the great controversy in which the church was now engaged, and how immensely it might increase the difficulties that stood in the way of an amicable settlement. To assert her authority over her own ministers, by restraining them from committing a gross and insulting act of rebellion against her laws and government, was indispensable, unless she meant to abandon every principle and privilege for which she had been hitherto contending, and to expose herself to the merited scorn of the whole community. But on the other hand, to do this at the expense of arraying on the side of these offending ministers, the strong feelings of that numerous and influential class of politicians and statesmen whose sympathies were well known to be altogether with the courts of law, was to face an alternative pregnant with formidable dangers. All this was seen, and all this was calmly and prayerfully considered. There was this comfort, however, for the church in this trying emergency, that though the future was thus growing more dark, the path of present duty was perfectly clear. And this inestimable comfort the church, through the goodness of her gracious Lord, continued to enjoy to the end. The Egyptians were behind, and the Red sea before,—but the pillar of fire never failed unequivocally to point the way even amid the thickening gloom.

The prospects of the Church dark, but her path of duty clear.

When the parties were ranged at the bar of the commission,—the majority of the presbytery appearing by their counsel Mr. Pyper, the moderator and minority by Mr. Graham Speirs, and the parishioners of

Marnoch by Mr. James Moncrieff, — a variety of objections, most of them obviously irrelevant, and all of them utterly untenable, were tendered by Mr. Pyper, with a view to hinder the commission from taking up the case at all. These being at length disposed of, and the matter fairly in shape for discussion, "Mr. Dunlop begged to ask Mr. Pyper, whether the presbytery would now state their willingness to submit to the judicatories of the church, or if they were determined to persevere in disregarding the instruction of the commission." It was thus left to themselves, even at that eleventh hour, and notwithstanding of all their past outrageous conduct, to avert the censures of the church, and to quench that burning brand which they had been preparing to cast into the sanctuary. "Mr. Pyper said he had no instructions to recal the report (of the presbytery's proceedings which had just been laid before the commission, and in which their rebellious resolution was embodied), or to alter or modify any statements therein." On the motion of Mr. Dunlop, this question and answer were minuted. Sir Charles Ferguson asked if Mr. Pyper was "instructed as to the *present* mind of the presbytery, in reference to the subject matter of the report." This was a hint from an amiable member of their own party in the church, to reconsider their position, and to render unnecessary the measures which otherwise, and at whatever cost, must inevitably be taken. But the hint, with characteristic recklessness, was disregarded. "Mr. Pyper declined to answer that question." Parties were then removed and the commission adjourned till the evening.

CHAP. IX.

The Commission willing to overlook what was past, if the recusant presbyters will now desist from their rebellious proceedings.

The conciliatory spirit of the Commission, met by a dogged refusal to yield.

CHAP. IX.

It obviously was not enough for an occasion like this to put forth a naked act of ecclesiastical authority. Necessity required that the act should be accompanied by such an exposition of the principles involved in it as might serve, if not to convince all men of the justice and propriety of the act, at least distinctly to show on what grounds those who did it were prepared to rest its vindication. The discharge of this important and onerous duty was imposed by his brethren on the Rev. Mr. Candlish, and none who were present will ever forget the admiration which his speech awakened or the impression which it produced. After alluding to the solemnity of the occasion, and giving a clear and forcible narrative of the case, explaining as he proceeded the long and intricate succession of irregularities and illegalities, shifts and manœuvres, to which the majority of the presbytery had had recourse in prosecuting their resolute attempt to intrude Mr. Edwards upon the parish of Marnoch,—and showing at the same time with what commendable courage and forethought the moderator had so exercised his undoubted prerogative, in regard to the calling of the *pro re nata* meeting, as to have hitherto defeated their designs,—he read the following preliminary findings, which he meant to propose for the adoption of the commission:—

The speech of Rev. R. S. Candlish: and the impression it produced.

"1st, That the breaking up by the presbytery of Strathbogie of their meeting, on the 12th of November, without receiving the deliverances of the general assembly and commission, which the moderator, in his circular calling the meeting, had intimated that he was to lay before them, was an unwarrantable proceeding, in disrespect to, and in evasion of, the authority

Preliminary findings of the Commission.

of the general assembly and commission; and that the refusal to record a dissent and complaint against the resolution come to by them was an obstruction of the cause of justice in violation of their duty. CHAP. IX. The first.

"2d, That the said presbytery, in pronouncing a determination to proceed upon the decree of the court of session, at the instance of Mr. John Edwards, formerly presentee to the parish of Marnoch, and upon his memorial, violated the injunction of last general assembly,—that in the event of any change of circumstances, the presbytery should report the matter to the commission, who alone were empowered to determine thereon. The second.

"3d, That in resolving to proceed towards the settlement of the said John Edwards in the parish of Marnoch, the said presbytery acted in opposition to the fundamental principles of this church and to the provisions of the act of the general assembly 1834, 'anent the calling of ministers,'—in disregard of the sentence of the general assembly, 1838, remitting to them to reject the said John Edwards, and of their own final sentence thereupon,—in breach of the injunction of last general assembly above-mentioned, and in violation of the sentence of the commission of date the 28th May, prohibiting the said presbytery from 'taking any steps towards the admission of Mr. Edwards before the next general assembly in any event.'" The third.

These findings formed the steps of the ladder by which the commission was to ascend to the grave conclusion which yet remained behind; and towards that conclusion, after recapitulating the charges embodied in these findings, and which he had fully

CHAP. IX. established in the preceding portion of his address, Dr. Candlish now advanced.

"It is clear, therefore," he said, "that they have violated the injunctions, not of the commission alone, but also of the general assembly, and there can be no doubt, that what they have done involves contumacy towards both of these courts. But here, I pray you, particularly to observe, that though we have pronounced this declaration in our finding, it is not because we have any wish to deal with this grave offence judicially, or with a view to the infliction of punishment upon the presbytery. Even at this stage, after all these proceedings, I would be quite prepared, and would rejoice to move, that the commission should simply refer the whole matter to the next general assembly, if only we could obtain from the members of the presbytery, or from the counsel whom they have chosen to appear for them, anything like an assurance that they would, in the meantime, submit to the authority of their ecclesiastical superiors. I entreat the commission to bear this in mind, as most important for vindicating ourselves from the charge of tyranny or oppression which may be brought against us. I should have thought that we might have reckoned upon receiving some such assurance from a presbytery situated as this presbytery now is. * * * I am sure nothing would have relieved me more, and I am persuaded nothing would have relieved the commission more than, if in answer to the question put by Mr. Dunlop, their counsel had given us assurance that they were prepared to obey their ecclesiastical superiors —or if he will now do so,—if he will say, in their

The Commission most reluctant to take steps against the recusant ministers.

The offer renewed to stop further proceedings, if they will agree to pause.

name, that they are prepared to obey and to abide the meeting of the next general assembly,—if these brethren will give us this night, either by their procurator or otherwise,—if they will give us an assurance, that till the meeting of the assembly they will take no further steps in the matter, I will at once give up the following findings, and gladly agree to refer the question to the assembly. I think, moderator, we are entitled to take this ground, and to throw the whole burden of any apparent severity in our proceedings away from ourselves, on those who have made it unavoidable. It is not till we have been driven to the wall,—it is not till, in various instances, we have been bearded and defied by our own licentiates,—it is not till intolerable offences have been committed against all ecclesiastical authority by our own ordained ministers; nay more, it is not till as in this case it has become absolutely essential to do something for the mere purpose of keeping the question open till the assembly can dispose of it,—it is not till then that we have resorted to anything like penal measures. Often have we been tempted,—often have we felt ourselves called upon by our obligations to the church, to which we are bound by oath, to exercise severity—but hitherto we have abstained. I hold that the very first instance of an appeal, on the part of a probationer, from the ecclesiastical to the civil courts, might have been summarily visited with the severest punishment, with the highest censures, with deprivation of his licence itself. And it is notorious, that since, we have had repeated opportunities, most aggravated cases, for

If they refused, the Commission would be entitled to throw the burden of any severity that might be used, on the ministers themselves.

Already the Church had exercised much forbearance.

CHAP. IX.

Forbearance exercised in the case of Lethendy.

the interposition of our authority. The case of Lethendy, for example, was a strong and urgent call upon us to proceed with severity. In that case the church of Scotland was not only resisted in the execution of her own laws, by one of her own probationers; but what was more offensive still, she was insulted by that very probationer daring to take steps, which it could not even be pretended were essential for the maintenance of his civil rights—which could have no other end than to subject the church of his fathers to contumely. When he dragged a presbytery before a civil tribunal,—when he compelled a court of the church of Christ to appear that they might be rebuked by the civil judges of the land,—when he brought a court of the church into this position,—most offensive to all who have any reverence for the authority of the Lord Jesus, and the sacred character of His ministers,—I say he lost all claim to the forbearance which he so grossly abused —and that there would have been no injustice in depriving him of his ecclesiastical privilege, which the church conferred, and which the church might withdraw, and leaving him to prosecute his civil right if he chose, but with his civil standing alone. I mention these things merely as proofs of our lenity and indulgence, not as if they were necessary to justify what we may now be compelled to do. Sir,

The unjust reproaches that were cast upon the Church.

we are upbraided in various quarters with tyranny,—with a disposition to deal tyrannically with our probationers. We are upbraided with seeking for ecclesiastical authority, with a lust for clerical power. If we had a single spark of such ambition, moderator,

we might have wreaked our vengeance on these helpless and defenceless men long ere now. They have given us occasion enough: and in dealing bare justice, we might have resorted to measures which, with rather more plausiblity, might have called down the generous indignation of those who now so causelessly exclaim against us.

The limit of forbearance had now been reached.

"But now, at last, we have reached the limit of forbearance. The time has come, not for vengeance, not for punishment, but for prevention; we must take strong and decided measures. It is painful to think that we are now, for the first time, called to pass a sentence of severity, and it is doubly painful to be myself the first publicly to propose it; but I am relieved when I think that, in proposing this sentence, I am not actuated—and in adopting it the commission will not be actuated—by any personal or vindictive feeling, but only by a desire to prevent irreparable wrong from being perpetrated. We stand on the defensive, simply and exclusively on the defensive. In last general assembly steps were taken to secure a suspension of hostilities between the church and the state, while the negotiation for a settlement of the whole question was going on. I care not what may be said in some quarters about our re-enacting the veto regulations and transmitting them for the consideration of presbyteries, as if this were inconsistent with such a course; for every one knows we could not have abstained from doing so without giving up the measure altogether. All due precautions were, however, taken to prevent any new collision with the civil court. It is true, we did

CHAP. IX. continue to prosecute the warfare in all competent and legitimate modes by appeals to public opinion and to the governing and legislative authorities of the land. We never pledged ourselves to silence or inactivity; on the contrary, we avowed our resolution to strain every nerve to bring about a better understanding and a better practical arrangement on the great subject under debate. But most effectual measures were taken to prevent any new collision,—to avoid anything that might raise new difficulties in the way of an arrangement, or aggravate unpleasant feelings so far as the mutual clashing of the civil and ecclesiastical courts might be concerned. Would that we had been met with similar conduct on the part of patrons and probationers. There was no necessity for those hasty proceedings. Every motive of duty,—every consideration of expediency,—every feeling of regard to the best interests of the country, and to the authority of the courts of law themselves,—dictated the propriety of a suspension of hostilities, and should have led our opponents to meet us in a kindred spirit, and to do nothing to increase the embarrassment, while our efforts towards a settlement were going on. Instead of this, what has been the conduct of those on the other side? I do not know by whose advice they were acting: but there does appear to be a systematic design somewhere,—a desire shown, not in one instance only, but in several, that matters should be precipitated prematurely to a crisis. What have they been doing, since in last assembly we resolved to suspend, during the present year, every new case of a disputed settlement?

The pains the Church had been at to prevent new collisions.

How had the Church's efforts to maintain peace, been met on the other side?

Was it before or after the meeting of that assembly, that the unseemly spectacle was exhibited, of a court of Christ's church being dragged forward to receive a rebuke from the civil tribunal? Was it before or after the meeting of assembly that they pressed for a new judgment in the case of Auchterarder? And is it not deplorable *now* that when our object is to hang up the whole matter till next assembly, we should be driven to the necessity of proposing a measure which it pains my heart to propose, and which it must deeply grieve this commission to entertain." Mr. Candlish here read, amid profound silence, as follows:—"The commission, therefore, after these findings, reverse, rescind, and make void the whole proceedings of the said presbytery at their meetings of the 12th November and 4th December: approve of the conduct of the moderator with reference to the former of these meetings; dismiss the memorial of the said John Edwards, and prohibit him from applying to the said presbytery, or any of the members thereof, to be taken on trials, or to be admitted to the pastoral charge of the parish of Marnoch, and from presenting himself to the said presbytery, or any of the members thereof, to be tried or admitted as aforesaid, with certification that if he violate this prohibition in any part thereof, he shall be holden and dealt with as contumacious, and instructing the said presbytery in that event to cite him to appear and answer for his contumacy before the stated meeting of commission in March, and before the next general assembly, failing such meeting of commission."

The sentence of the Commission upon Mr. Edwards.

"And the commission considering that they are

CHAP. IX.

The sentence in regard to the Presbytery.

specially enjoined by the general assembly to advert to the interest of the church on every occasion, that the church and present establishment thereof do not suffer or sustain any prejudice which they can prevent, as they shall be answerable: and that most grievous prejudice would result to the church and establishment thereof, from the resolution of the said presbytery being carried into execution: and further, considering the necessity of maintaining inviolate the authority of the supreme judicatories of the church to which her ministers at ordination have all solemnly vowed submission, and considering also that the actings of the said presbytery above mentioned, require for the purposes already specified the suspension of the members of presbytery who have not dissented therefrom, and so have evinced their resolution to force on the parish and people of Marnoch a rejected presentee, in defiance of the laws of the church and the express injunctions of the supreme judicatories thereof: but that the following members of presbytery have dissented from the said proceedings, viz., Mr. David Dewar, minister of Bellie, moderator; Mr. John Robertson, minister of Gartly; Mr. William Duff, minister of Grange; and Mr. Henry Leith, minister of Rothiemay,—the commission resolve to suspend the remanent ministers thereof, viz., Mr. William Allardyce, minister of Rhynie; Mr. William Cowie, minister of Cairnie; Mr. William Mason, minister of Botriphnie; Mr. John Cruickshank, minister of Glass; Mr. James Walker, minister of Huntly; Mr. James Thomson, minister of Keith; and Mr. James Alexander Cruickshank, minister of Mortlach: and the commission,

Acquits the minority.

Suspends the seven ministers of the majority.

therefore, did, and hereby do suspend the said (repeating their names), from the office and function of the holy ministry, aye, and until they shall be reponed by the general assembly, or otherwise, as after mentioned, prohibiting and discharging them from the exercise of any of their functions till reponed, as aforesaid: and declaring all acts, ministerial and judicial, performed or attempted to be performed by them or any of them, from and after the date hereof, and until reponed, to be void and null: reserving to the commission at their stated meeting in March, and also to the unsuspended ministers of the said presbytery, in presbytery assembled, to repone any of the parties suspended as above, who may compear personally, and subscribe an assurance that they will submit themselves to the judicatories of the church in this and in all other matters, but not otherwise."

Authorizes the Commission in March, or the remanent Presbytery of Strathbogie, to repone the seven ministers, or any of them, on their submission.

Having laid this proposition before the house, Mr. Candlish proceeded to advert to a charge which had been hinted at in the preliminary discussion of that forenoon. "I confess, sir," he said, "it was not without surprise that I heard Dr. Bryce quote, though for another purpose, the famous case of Dunfermline. Does it not occur to him and to his friends, that in these discussions it is not very safe to allude to such cases. They remind us of proceedings on the part of the majority then, which we cannot but place in opposition to our proceedings now, against which so much has been said. Respect for the consciences of individual ministers is the plea which perhaps may be urged now as a reason why we should

Mr. Candlish notices the speech of Dr. Bryce.

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Contrasts the leniency of the course pursued now, with the severity of moderatism in the case of Dunfermline.

not visit severely the members of this presbytery who tell us that they cannot conscientiously obey us. Most heartily do I wish, sir, that at all periods in our history such respect had always been paid to conscience. We would not have had to regret the exclusion from our church of men whose only fault was, what we now regard as their highest glory, that the authority of conscience in them was paramount and sacred. I ask this house now to consider the difference between what we propose in reference to the case of Marnoch, and what was done in regard to such men as I have referred to in such a case as that of Dunfermline. I implore this commission to remember those dark and dreary days, and to think how commissions of the general assembly then dealt with the consciences of these holy men. Were they, I ask, contented with taking steps to secure that their sentences should not be frustrated, or even to provide for their being actually carried into effect? No; but with a refinement of cruelty, an ingenuity of torture, they seemed wantonly and gratuitously to seek out pretexts for outraging the tender consciences of brethren, and driving them to extremities when there was not a shadow of any practical necessity for doing so. What else could be the meaning of the church's proceedings, when—not content with having their severe sentences against the liberties of the people executed by those who were willing to be her agents —she insisted that the best and most godly ministers of the day should—against their consciences

The case of Dunfermline described.

and the light of holy scripture, as they viewed it —become themselves her instruments in enforcing her tyranny? Well would it be for us in these times, when such an outcry is raised about what is called our ecclesiastical despotism, when so much is said about our attempting to obtain and exercise arbitrary power, well would it be for us and for themselves, if the godly people of Scotland would have some regard to the facts of history, and would call to mind the persecutions of these godly ministers who were not merely prevented from obstructing the execution of the church's decrees,—*that* they made no attempt to do—but in the mere wilfulness of despotic authority must be compelled themselves to bear a part in it. I say it would be well if our people would contrast the proceedings of the present majority in the church courts with the proceedings of the dominant party in those days of old, when —without any pretence of necessity, with a degree of unfeeling and unrelenting rigour altogether inconceivable, with no motive apparently but that of outraging the conscience and causing schism—they not merely required unacceptable presentees to be settled, but most needlessly, when there were ministers enough who held it lawful, specially required those who held it sinful, on pain of deposition, to settle them. These, sir, were the men who loved ecclesiastical power, and delighted in deliberately asserting a despotism almost worthy of the papal domination. We, sir, have no such delight,—we have no wish that the members of the presbytery of Strathbogie should experience any unnecessary exer-

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Those who make an outcry now, about the severity of the Assembly, would do well to look into the facts of history.

CHAP. IX.

The authority of the Church Courts must be maintained.

cise of our authority. It is true, indeed, that we desire to assert and vindicate the authority of the church in this and in all other cases. We are prepared at all hazards to maintain the authority of her jurisdiction against the encroachments of the civil arm. And whatever may be said in some quarters, we are equally prepared in the whole of this matter of the settlement of ministers to assert the authority of her government and discipline as paramount alike over the power of the patron and the privileges of the people. We must therefore, in the present case, vindicate the supremacy of the general assembly and its commission; but I ask you again to observe, that the measure which I propose is strictly preventive, and has for its single object—not to compel men to perform an act which it hurts their consciences to perform, but to prevent them from doing what, if left alone, they might feel themselves bound to do, but what, surely, if they are prevented by the interposition of our authority, they cannot reasonably take blame to themselves for leaving undone." * * * "Sir, we see inserted in their records their resolution to yield obedience in this matter to the civil court, and not to us, their ecclesiastical superiors. And now we have them, in the very face of our prohibition, deliberately proceeding to adopt measures for completing this settlement. Are we to leave them in a position in which they may actually get this done? Can we, with any regard to the safety of the church, if we would not have the mischief which we dread actually effected, and this church, and these ministers, and this presen-

The sentence now proposed was preventive, rather than punitive.

Impossible to leave the seven ministers in the position they have assumed.

tee, all brought into circumstances most disastrous to anticipate? Can we leave to these men the power of ordaining and inducting a pastor in this parish? And after what we have seen of their determination to disregard all our injunctions, can we effectually deprive them of the power which they are thus bent on using to our hurt and their own, in any other way than by taking away altogether their ministerial character, and so incapacitating them for taking any further steps whatsoever until the general assembly meet to vindicate its own authority, and determine on the case as it shall then see fit."

It is safer for themselves to take from them the power of doing what they intend.

As the adoption of the motion thus presented to the commission must needs involve a complete interruption of the ordinary supply of divine ordinances in the parishes of the seven ministers, it was indispensable that means should be taken to have that supply provided in another way. With this view, Mr. Candlish further proposed that the presbytery, now reduced for the time to the faithful minority, should be appointed to meet on an early day to make the necessary arrangements; and also, that a committee of the commission should be named with instructions to correspond with and assist the presbytery in fulfilling this important duty; and finally, that all other presbyteries, ministers, and probationers throughout the church should be enjoined, to the utmost of their power, to lend their aid when called on, by the foresaid committee and by the presbytery of Strathbogie, in affording to the seven parishes an abundant ministration of the means of grace. "Everything," said the speaker, "that can be done, I feel assured, will be attended to, so as

Arrangements for supplying the parishes of the seven ministers with religious ordinances.

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Ministers and probationers of other presbyteries invited to lend their aid.

to prevent the people, as far as possible, from experiencing any want of religious instruction and pastoral care; and I am confident that ministers and probationers, under the sanction of their several presbyteries, will, at whatever inconvenience to themselves, be willing to lend their aid in this good work." In truth, the suspension, however painful in other aspects of it, was a most auspicious event as regarded the spiritual interests of the people of Strathbogie. Never, at any known period of history, had the gospel such free course in that district as subsequently to the suspension of the seven ministers. Moderatism in its coldest and most secular type, had the seven parishes till then all to itself. The etiquette of a parochial establishment made it something like a breach of church order for one minister to intrude upon the domain of another without his leave, even when his sole errand might be to preach the gospel. And so jealously was their understood prerogative guarded by moderate ministers in Strathbogie, that less than twenty years before, an eminent and much blessed servant of God, the Rev. John (now Dr.) M'Donald of Ferintosh, was, at the instance of these ministers, censured, under the auspices of their party in the general assembly, for daring to open his mouth within their bounds. The good man having chanced to pass through their sterile region, felt "his spirit stirred in him," like Paul in Athens, when he saw the deadness which reigned around. And, more alive to the worth of immortal souls, and to the power and preciousness of Christ, than to questions of clerical privilege or parochial subdivision, he took his stand at the highway-side

Anecdote of Dr. M'Donald of Ferintosh, in connection with Strathbogie.

and made Strathbogie ring with the glad sound of the everlasting gospel. It was no calamity to that people when they found the old fence now fairly broken down, and, without let or hinderance, the gospel permitted to go forth through the length and breadth of Strathbogie. By a somewhat singular and not uninteresting coincidence, Dr. M'Donald was one of the earliest deputies of the church in doing service in the parishes of the suspended ministers.

Dr. M'Donald now appointed to do, what he was censured for doing in the days of moderatism.

But this is anticipating somewhat the course of the narrative. The motion of Mr. Candlish was seconded by Henry Dunlop, Esq. of Craigton, lord provost of Glasgow. Dr. (now Principal) Lee "held that the presbytery had acted in a most unbecoming way in withholding their minutes. He did not comprehend why they should act in such a way. * * * He had no intention of making a counter-motion; but he took the liberty of saying that the commission would, in all probability, gain their object by other measures more moderate than those which were proposed, unless they intended to say that men must either depart from the convictions of their own minds and resign their ministerial liberty, for which the first seceders contended as the highest of all privileges, or they must submit to the degradation of being suspended from office." He feared the course proposed might breed a schism. "And for himself he felt entitled to say, that if a milder way could be devised for bringing about the end which they (the commission) desired, he would vote for that milder way." Mr. Dunlop "was quite willing to concur in the conclusion of Dr. Lee's speech,—that if there were a milder way they were

Speech of Dr. Lee.

Is in favour of a milder way.

CHAP. IX.

Mr. Dunlop would be for a milder way too, if it could be found.

bound to adopt it,—he would rejoice to adopt it. But the point was this,—was there a milder way of accomplishing that object which all admitted must be accomplished? There was, indeed, a milder way; but whether it could be adopted depended not on the commission but on the seven ministers themselves. Let them only signify their willingness to abstain from their threatened intrusion of Mr. Edwards, and the commission would be mildness itself. Refusing to do this, they cannot complain of the severity of a sentence the sole object of which is to render unnecessary the inflicting of a sentence greatly more severe. If not suspended, they would evidently consummate their present rebellious course by ordaining Mr. Edwards, and then the assembly could have no choice left but to depose them from the ministry altogether."

The seven ministers might make a milder way if they chose.

Dr. Chalmers supported the motion of Mr. Candlish. "The presbytery had committed an open breach on that authority, under which all statutory enactments and all judicial sentences were carried into execution. It was disobedience, not against a rule, but against the power which originated and enforced all rules and ordinances. If it were allowed there would be an end to all law and all government. He must confess, that when he heard of the proceedings of the presbytery, his feeling was, that there was nothing for it, but that this act of highest offence should be followed by an act of the highest infliction, but he was glad this expedient had been devised in the meantime. For his own part, far from seeking reasons of punishment, he would much rather look for reasons of palliation,—and the only palliation he could discover was, that they had

Speech of Dr. Chalmers: supports the motion of Mr. Candlish.

been acted on, he was afraid, if not by the power of an excited imagination, at least by the power of a strong delusion, at the influence of others. If he could discover this, if he could discover that their first movements had been, not the result of their own simple hardihood, but the result of their own simplicity, operated on by the machinations of others, he would be inclined to deal with them all the more leniently. He glanced at nobody, but he was afraid these ministers were under the influence of others, who were beyond their jurisdiction. If that were true, his indignation was altogether removed from them and lighted on the heads of those disturbers of the peace of their Israel, the disturbers of the peace of the commonwealth. He believed that the feelings and fears of the members of the church had been operated on with a view to precipitate measures at the very time that the legislature of the church was approaching to the legislature of the state, for the purpose of adjusting the whole question. This was the time chosen by the idolators of the law as it is,—of that law which was now found to conflict with the original principles of the church. This was the time chosen by certain parties to throw embarrassments in the way of the church. He believed that an attempt was making to shake the nerves of the clergy of the church, by threatenings of confiscations and imprisonment, to induce them to quail before the judicatories of the civil power in the city of Edinburgh, when higher than this they ought to look—to the higher and presiding power in London, which was able, by its legislative power, to harmonize all the conflicting elements—or higher still, they ought to look to the

CHAP. IX.

Suspects that there is an influence out of sight stirring up this insurrection.

An attempt making to shake the courage of the clergy.

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paternal guidance of the church, holding directly of her Head in heaven, and to whose ordinances and laws, in matters of government and of discipline, they had sworn obedience. He regretted, in common with all good men, the unforeseen conflict which had arisen between what was now found to be the law of the state and the constitutional principles of the church. The two laws had crossed or interfered with each other. And the effect of this was the severance of the civil benefice from the ecclesiastical cure. The general assembly had betaken itself to the constitutional process which was taken in every other case of co-ordinate jurisdiction. They had taken the question from the judicial to the legislative tribunal, and they had suspended their proceedings till the meeting of next assembly, by which time they might expect, perhaps, civil legislation on the one hand; certainly they might be assured of ecclesiastical legislation on the other, being brought to bear on this question. Under these circumstances, he did expect that they would have been followed in their forbearance by the other side, that there would have been a cessation of hostilities. Everything is doing to thwart us—everything is doing to annoy us—everything is doing to prevent us from bringing those negociations to a happy issue. Our immediate business is not with men who oppose us out of doors, but with a party of our own brother ministers and elders of the church of Scotland. * * * I therefore, in the name of all that is dear in principle, and all that is dear in patriotism, call upon you to unite,—and remember what you are called on to do is not to defend or rescind the veto-law,

The Assembly labouring to effect a settlement.

Everything done to thwart the Assembly, and to make a settlement impossible.

but to defend our beloved church from anarchy within, and from that tyranny which now menaces and frowns upon us from without. Heaven forbid, that in the wild delirium of conflict we should forget principles which are equally dear to both parties, or suffer the church of Scotland to fall by the hands of her own children." Dr. Bryce, ever ready to be the forlorn-hope of ultra-moderatism, came to the rescue of the seven brethren, and intimated his intention to oppose the motion of Mr. Candlish. "The commission," he said, "while they bore testimony to his boldness, would also, he trusted, give him credit for sincerity." He denied that the presbytery of Strathbogie had violated any law of the church. "It was true," he observed with great *naivetè*, "that a law was passed in 1834, commonly called the veto-law,—*which, had it been still in force,* the presbytery might have been held as having violated!" The court of session had frowned upon that unfortunate enactment, — Lord Brougham and the chancellor had shaken their "ambrosial curls," and given, like Jupiter, the decisive nod against it,—and of course it had disappeared utterly and for ever. It was but a ghost at the best, in Dr. Bryce's view, and the lawyers had laid it. His next flight was, if possible, still higher. "He saw nothing in the determination of the presbytery which was contrary to the principle of non-intrusion, as known in the church. The presbytery were maintaining the integrity of the non-intrusion principle." The whole parish of Marnoch, elders and people, thought the proposed settlement of Mr. Edwards a gross intrusion: but what then—he had a call from

Speech of Dr. Bryce.

Affirms that the Strathbogie ministers were maintaining the integrity of the non-intrusion principle.

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Peter Taylor, the publican of Aberchirder; and Peter and the majority of the presbytery being satisfied, the principle of non-intrusion remained entire. There was yet another difficulty, however, to be overcome. "There was a special deliverance of the assembly prohibiting this presbytery from proceeding to induct Mr. Edwards. But," and of course this got over the difficulty at once, "the presbytery had never been made legally acquainted with the deliverance!" Innocent men—zealous non-intrusionists—loyal and dutiful sons of the church—why should they be punished! The argument was irresistible, and the conclusion followed of course,—which he accordingly embodied in a counter-motion—that the commission "disapprove of the conduct of the moderator in not calling the *pro re nata* meeting of presbytery, in terms of the requisition: approve of the conduct of the presbytery, and refer the report given in by the presbytery to the next general assembly." This motion found a seconder in the Rev. Mr. Liston, of Redgorton. The Rev. Dr. Muir, of Edinburgh, could not support any motion that approved of the conduct of the presbytery: "There were peculiar circumstances connected with the early connection of the presentee with the people of Marnoch, as the proof of his unsuitableness for them, which were enough to give the presbytery a serious admonition as to how they should have conducted themselves in viewing and weighing objections and reasons of dissent when offered to them. And, therefore, on that ground, and on the ground of other matters relating to their procedure in recent meetings of their court, he could not join in the motion to approve of their conduct."

Pleads that the seven ministers had never been legally informed of the prohibition which they had violated.

Dr. Bryce's motion approving of the conduct of the seven ministers seconded by Mr. Liston, of Redgorton.

The Rev. Dr. Muir's speech.

He concurred in a great deal of the first motion,—but could not go along with the conclusion. He thought the end contemplated might be gained by appointing a committee to confer with the presbytery. Dr. Lee, being urged by Mr. Walter Cook to put the views he had expressed into the form of a motion, consented: and his motion was to this effect—that the presbytery be cited to appear before the commission in March, and to bring up with them full extracts of all their proceedings in the Marnoch case; and that, meanwhile, they be prohibited from taking any steps to fill up the vacant charge: with certification if they do so, they should incur the highest censures of the church. Dr. Lee framed his motion, however, simply for the purpose of having it in his power to record his dissent. The motions on which the commission actually voted were those of Mr. Candlish, Dr. Bryce, and Dr. Muir. Dr. Bryce's motion being put as the amendment to Dr. Muir's, was lost by 9 to 13. The great body of the members declined to vote for either. On the second vote, Dr. Muir's motion was put against that of Mr. Candlish, and was lost by 14 to 121. Such was the overwhelming majority by which the resolution to maintain the authority of the church over her own office-bearers was adopted. Before the division took place, Dr. Bryce withdrew from his motion the clause which contained an approval of the presbytery's conduct. Their proceedings may thus be said to have been unanimously condemned. On the other hand, Mr. Candlish, gladly adopting a suggestion which had been thrown out during the discussion, had added to his motion that a committee should be appointed to

Dr. Lee frames a motion, but only to enable him to enter his dissent.

Motion of Mr. Candlish carried by 121 to 14.

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confer with the presbytery and Mr. Edwards. Of this conference committee the Rev. Dr. Gordon was made convener.

On the following day, a fresh indication was given of the lengths to which the seven ministers were prepared to go. A notarial protest was, in their name, and by their agent, served upon the moderator, holding all who had concurred in the sentence pronounced against them by the commission liable to them in all "cost, skaith, damage, and expense," that they might incur in consequence. This was, of course, an act of flagrant contempt of the authority of the commission, —and would of itself have justified the highest ecclesiastical censure. Unwilling, however, to go a step further than absolute necessity required—still desirous to leave a door open for reconciliation—and indulging, moreover, the charitable hope that the zeal of their legal adviser, rather than their own deliberate purpose, might have dictated this outrageous proceeding,—the commission contented itself with referring the protest, along with the whole other matters in the case, to the next assembly, and granting warrant to cite the offenders to appear at the bar of that supreme court to answer for their conduct.

A notarial protest served by agent of suspended ministers, holding all who voted against them liable in damages.

The protest, and all other matters in the case, referred to next Assembly.

It soon appeared, however, that all this consideration and leniency were completely thrown away. The suspended seven had taken the field as rebels against the authority of the church—an authority which, by their ordination vows, they had solemnly bound themselves to obey—and instead of lowering their insurrectionary banner when struck by the sentence of the commission, they hastened to display it with an air of

greater defiance than ever. Four days after the sentence was pronounced, they presumed, in utter contempt of it, to meet in a pretended presbytery, and to come to a formal resolution to disown the commission's authority, and to seek against their own ecclesiastical superiors the interposition of the civil power. The terms of their application to the court of session sufficiently shewed what was to be expected at their hands, or at least at the hands of those who were guiding their conduct in this affair. They called on the court "to suspend the resolutions, sentence, and proceedings" of the commission, and "to prohibit and discharge" the minority of the presbytery from carrying the instructions of the commission into effect. Not only did they ask that none should be allowed to molest, invade, or interrupt themselves, the complainers, in exercising their usual functions, but they went so far as to solicit a direct interference with the functions both of the minority of the presbytery and of the commission itself. They prayed the court "to interdict, prohibit, and discharge" the minority, to whom the commission had granted the necessary powers, "from holding any meeting of the presbytery of Strathbogie, for the purpose of supplying ministerial services, or otherwise exercising any of the functions of the complainers in their respective parishes, or otherwise acting on the foresaid deliverance and sentence." Nay, more, after naming the individual ministers, from various parts of the church, who had been appointed by the commission to co-operate with the presbytery in executing the commission's sentence, the court was entreated to interdict these and all

The suspended ministers disregard the sentence, and meet in a pretended Presbytery.

They apply to the civil courts to set aside the sentence of the Church.

They ask the civil court to prohibit the Church from preaching the Gospel in their parishes.

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others, not only from entering into the churches of the complainers, but from "intruding into their parishes" to intimate the sentence of the commission, or in any manner of way to perform the duty which the commission had appointed these ministers to discharge. Let the reader mark the extent of this demand. It was not merely that the civil court should continue the suspended ministers in the possession of the temporal emoluments of their office, but in their office itself. It was not merely that the civil court should authorize them to disregard the ecclesiastical sentence, but it was that the civil court should set the ecclesiastical sentence aside by a decree of its own. It was not merely that the seven men, from whom the church had withdrawn all authority to minister in sacred things, should be empowered by a civil court to minister in those things sacred notwithstanding; but it was, that by the same civil tribunal, authority should be denied to the church herself to perform any sacred function in a certain number of her own parishes. In a word, the demand made upon the court was to interdict the national church from preaching the gospel and dispensing the sacraments in any part of a whole district of country,—not only from doing these things in the parish churches, but even in private houses or in the open fields! The confession of faith, which these men had all of them subscribed, expressly declares, that by the express ordination of Christ, the government of the church has been placed in the hands "of church officers, distinct from the civil magistrate;" and that "the civil magistrate may not assume to himself the

The extreme nature of this demand.

Prays the Court of Session to give spiritual powers to them, and to take spiritual powers from the Church.

The making of such a demand implies a denial of the doctrine of the Confession of Faith as to the power of civil rulers.

power of the keys." The petition of the suspended ministers was obviously and undeniably in direct contradiction to these principles. It proceeded on the assumption that the sphere of church power was *not* distinct from that of the civil power; and that the civil magistrate, by his civil functionaries, the judges of the courts of law, *was* competent to exercise the power of the keys. The petition accordingly, and that in direct terms, called on those civil judges to put the power of the keys, the power, that is, of spiritual government, in force, by annulling the spiritual sentences of the supreme ecclesiastical court, by issuing decrees for the regulation of spiritual affairs, by giving authority to some and withholding it from others, to exercise the functions of the christian ministry. The plenary jurisdiction of the pope himself could hardly reach farther than the court of session were asked to go by the seven ministers of Strathbogie. Nor is it saying too much to affirm, that had such a demand been made upon the court of session, at any period from the Revolution downwards, until the doctrines, broached for the first time in the Auchterarder case, had gained a footing on the bench, it would have been cast back over the bar as an extravagance too monstrous to obtain a hearing. Nor was it all at once the court gave in to it even in 1839. In their decision they fell a great way short of the full range of the Strathbogie petition. They went no farther, on that occasion, than to interdict the minority of the presbytery, and all others, from using the church, church-yard, and school-house, in executing the sentence which the commission had pronounced.

The petition of the Strathbogie ministers called on the civil courts to exercise the power of the keys.

First Strathbogie interdict.

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The interdict obeyed, because limited to matters within the civil jurisdiction.

To this extent the church had no hesitation in deferring to this decree. It undoubtedly belonged to the civil tribunals to determine to whom the property of the church, church-yard and school-house, should belong; and since they had thought fit to decide that the right of setting foot within any of these places was permitted to no ministers of the church excepting to those seven whom the church had declared disqualified for exercising the ministry altogether, it was the clear duty of the church, however much wronged by that decision, to acquiesce in it at once. Accordingly, dead of winter though it was, the ministers appointed to execute the sentence of the commission betook themselves to the market-place, and to the open fields; and surrounded, in almost all the parishes, by crowds of the people, they did their duty,—not only publishing the sentence of suspension, but preaching everywhere with great power and acceptance the glorious gospel of the grace of God. It was a great day for Strathbogie: the word, at length, had free course, and ran, and was glorified. And thus it ever is, that He who is wonderful in counsel and excellent in working maketh even the wrath of men to praise Him!

The ministers sent by the Church to Strathbogie preach in the fields.

Feeling, perhaps, that as yet they had gained only a barren victory, the Strathbogie ministers, acting, no doubt, under the same legal advice which had hitherto directed their movements, returned, in the course of a few weeks, to the court of session once more. It was a small matter to have succeeded in shutting the evangelical and non-intrusion ministers out of the parish churches, unless they could exclude them from all access to the people; and unless, at the same time,

Second interdict applied for.

they could obtain from their new masters, the civil judges, a formal warrant for continuing in the exercise of the ministry themselves. By the former judgment, the court had granted only a small per-centage of their demand, and now therefore they came back claiming the whole. The Lord Ordinary Murray, to whom they first applied, continued the limited interdict already in force, but refused to go farther. Having carried their case, by a reclaiming note against his lordship's interlocutor, into the first division of the court, they obtained a decision in terms of their prayer! In moving this memorable sentence, not unworthy of the high-commission court of the Stewarts, Lord Gillies took occasion to say, "that it appeared to him that the position which the non-intrusion party of the church of Scotland had taken up in opposition to the established law of the country, was the most arrogant that any established church had ever attempted." Perhaps it was,—and that, simply, because no other established church in the world had either so contended for or so secured, as the church of Scotland had done, the constitutional right to an independent jurisdiction in matters spiritual. His lordship, however, ought not to have spoken of the attitude of which he complained as being that of a party, but as being the attitude of the church. A resolution passed by 121 to 14 was surely the judgment of the body which, by so overwhelming a majority, had spoken its mind. His lordship "then read an extract from Bacon, showing that the temporal courts had the right of expounding the law in relation to the spiritual courts." It would have been more to his purpose had

Refused by the Lord Ordinary.

The second interdict, and speech of Lord Gillies in moving that it be granted.

CHAP. IX. he been able to adduce in support of that opinion either the dicta or the decisions of the legal authorities of Scotland. "Certainly," said Lord Fullerton, taking a totally different view of the grave question before them, "the difficulty he had always felt in this case, and it was not yet obviated, was how their lordships could, by passing the interdict, review the decision of a court which, by the law of the land, had exclusive jurisdiction in ecclesiastical matters within those limits which excluded the jurisdiction of the civil courts. For, disguise the matter as their lordships might, they could not come to a decision upon the vote of suspension without taking into consideration matters which were purely ecclesiastical and beyond the jurisdiction of a civil court. * * * What were their lordships called upon to do but determine, if not in express terms yet by necessary implication, that these reverend gentlemen were entitled to exercise the functions of the holy ministry, and were entitled to administer baptism and dispense the holy communion, and that in defiance of their ecclesiastical superiors, from whom alone their spiritual privileges were derived. Unless the whole distinction between the civil and ecclesiastical law were at once overthrown, their lordships could not pass a note of suspension of this kind." Their lordships did pass it notwithstanding; and unquestionably, in so doing, they obliterated entirely, in so far as that decision and their power could accomplish such a result, "the whole distinction between civil and ecclesiastical law."

Speech of Lord Fullerton against granting it.

The interdict granted.

This extraordinary decision was regarded with all but universal astonishment. It overshot the mark.

It was erastian "overmuch." It brought the arm of the civil power too grossly and palpably into the domain of the church. Even moderatism itself could hardly stand so wholesale a surrender to Cæsar of the things of God. "Has your lordship heard of the extended interdict?" said a minister of the church of Scotland, addressing, two days after the interdict was pronounced, a distinguished conservative statesman, upon the streets of London. "I have," was the reply. "What may be your lordship's opinion of it?" said the clergyman. "I am not a lawyer," answered the sagacious senator, speaking with an air of reluctance, but yet with unusual emphasis, "I am not a lawyer, but I confess I don't understand it. Why, I suppose that, according to the law of this country, any man that pleases may preach in Strathbogie,—I suppose any minister of any sect whatever might go and preach there,—I suppose any chartist or infidel might go and preach there. And how it can be lawful to hinder the ministers of the national church, the very ministers who have been expressly intrusted by the nation itself with the religious instruction of the people, from going to preach there,—how, in this free country, it can be lawful to prevent them from doing what may be done by all other men besides, is what I don't profess to be able to comprehend. In fact," added his lordship, after a little pause, "I have written to ——— ———, to tell him that, in my opinion, he has brought the court of session into a great scrape." Whether it was this significant hint, aided by the state of feeling on the subject which had been awakened over the whole country, that had "changed the hand and

Remarks on this extended interdict by a distinguished statesman.

CHAP. IX.

The interdict systematically broken: the parties who obtained it afraid to enforce it.

checked the pride" of the individual in question, is best known to himself. Certain it is, that though both he and the court had talked very loudly of what would happen to those ministers or presbyteries who should dare to transgress the interdicts of the court of session,—the threat was never enforced. The interdict was treated as it deserved. Ministers hastened to Strathbogie at the call of the church, to face the peril,—but though all of them brought home interdicts in their pockets, duly signed and served, and systematically broken, no one was ever honoured with a summons to appear in consequence at the bar of the court of session.

The whole subject was brought under the consideration of the commission of assembly, at its meeting on the 4th of March; on which occasion Dr. Chalmers gave the legal authorities full and fair warning that if on their side they meant to apply the interdict, the church on hers had made up her mind to abide all the consequences of setting it at nought. "It is a question," said he, "on which all compromise is impossible. We have no choice, but must do what the apostle Paul did by the doctrine of justification through faith, —who felt that by yielding to the slightest encroachment, he would be making a surrender of the whole principle. And, therefore, he tells us of its adversaries, however slight or imperceptible their inroad was, 'to whom we gave place by subjection, no not for an hour.' In like manner, when invasion is offered by whatever party, and to however insignificant a degree, on the spiritual power of the church's government in things which are spiritual, we take up his lan-

The interdict discussed in the March Commission: speech of Dr. Chalmers.

guage, and say, 'to whom we give place by subjection, no not for an hour.' It is not a question of degree, it is a question of principle; and when called to recede by a single inch from that line of demarcation between the ecclesiastical and the civil, on which we have placed our footstep, we have only one reply—that we cannot, we dare not. We trust that this will both explain and vindicate the position we have maintained from the first outset of the present misunderstanding. We saw the mischief at its commencement: we saw it in what may be termed its seminal principle, and, as it were, through its rudimental or embryo wrapping, from the first deliverance of the civil courts in the case of Auchterarder. The public did not comprehend, and at the time, did not sympathize with us. The celebrated interdict against preaching has at length opened their eyes." Having alluded to a threat which the Marquis of Tweeddale had lately thrown out at an intrusion meeting in East Lothian, to the effect that the church would get no help from parliament, unless she first submitted to the court of session, Dr. Chalmers went on to say:—"It is right, and may serve to simplify the question, that they should distinctly know the ground upon which we stand. Be it known, then, unto all men, that we shall not retrace one single footstep. We shall make no submission to the court of session,—and that not because of the disgrace but because of the gross and grievous dereliction of principle that we should thereby incur. They may force the ejection of us from our places,—they shall never, never force us to the surrender of our principles; and if that honourable court shall again so far mistake their

The seminal principle of these encroachments contained in Auchterarder case.

Distinctly announces that submission in these matters to the civil courts is impossible.

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functions as to repeat or renew the inroads they have already made, we trust they will ever meet with the same reception which they have already gotten,—to whom we shall give place by subjection, no not for an hour,—no not for one hair-breadth."

Resolutions of the Commission condemning the interdict.

Upon the motion of Mr. Candlish, the commission adopted a series of resolutions, the *first* of which pronounced the late interdict of the court of session to be "contrary to the liberties of the church, as the same are recognised in the constitution of this country, and sanctioned by various solemn enactments of the supreme power in the state." The *second* traced these encroachments upon the jurisdiction of the church to the principle laid down by the courts of law in the Auchterarder case; and the *third* agreed to petition parliament to adopt measures "for protecting the church from such unconstitutional interference of the court of session with the government, discipline, rights, and privileges thereof." These resolutions, which the mover supported in an elaborate and powerful speech, were carried by 107 to 9. It is true that the self-sacrificing zeal of the evangelical party, making them willing, as it did in this great emergency of the church, to attend the commission more numerously than their moderate brethren, added somewhat to the disproportion between the two sides which this decision exhibited. At the same time the excessive smallness of the minority, and the entire absence from it of every man of standing and consideration, distinctly shewed how novel and startling, even to the moderate party itself, were those views of the civil court's power on which the interdict proceeded.

Resolutions carried by 107 to 9.

It will be remembered that, in order to faciliate the return of the suspended ministers to the favour of the church, the committee nominated by the commission in December had been instructed to offer them a friendly conference. To invest that conference with a character at once confidential and conciliating, the committee deputed three of their number to conduct it in their name, and these three,—all of them men whose character was a pledge that the seven ministers should be dealt with in a spirit of the greatest consideration and tenderness,—were the Rev. Dr. Gordon, and the Rev. John Bruce of Edinburgh, and the Rev. Dr. Makellar of Pencaitland. On the 10th of January, Dr. Gordon had accordingly written the suspended ministers, fixing the conference at Aberdeen, on the 16th of the same month. When the deputation arrived, instead of finding the seven awaiting them they found only a lawyer, who put into their hands a written document, on the part of the seven, declining the interview. The deputation wrote the following letter and returned home:—

The Strathbogie ministers decline to meet with the deputation appointed to confer with them.

"Aberdeen, 10th January, 1840.

"REV. DEAR BRETHREN.—We cannot help expressing the disappointment which we felt on receiving your communication, which was delivered to us this day by Mr. Milne, advocate. We had cherished the hope that you would have afforded us an opportunity of holding brotherly converse with you, and we relinquish that hope with great reluctance; but your communication has left us no alternative but to report to the committee that we have failed in the object of our mission. We shall never cease to feel the deepest

Letter of the deputation to the seven ministers.

CHAP. IX. regret that you should have declined to meet us. We trusted that, by the blessing of the great Head of the church, the conference which we desired to hold might have led to beneficial results.

(Signed) ROBERT GORDON.
ANGUS MAKELLAR.
JOHN BRUCE."

The kindness manifested towards the seven ministers thrown away.

Condescension and kindness had been stretched to the uttermost to give to these misguided men the means of rescuing themselves from an attitude of rebellion,—and the church from the dangers which their schism, backed by the courts of law, could hardly fail to involve. And this was the return! It was in keeping, it is true, with all the rest of their conduct, and served still further to illustrate and to justify the necessity of what had been already done.

CHAP. X.

THE CHURCH AND THE POLITICIANS.

Movement throughout the country in support of the Church.

WHILE the Strathbogie rebellion was thus engrossing and agitating the church courts, the public generally were every day becoming more and more alive to the serious character of the controversy, and to the magnitude of those interests which it involved. There was not a city, town, village, or hamlet, from one end of Scotland to the other, that was not ringing with the familiar sounds of spiritual independence and non-intrusion. Such indeed were the strength and prevalence of the popular sympathies upon the side of the church, that within five or six weeks after the meeting of parliament in the spring of 1840, petitions had been presented, signed by upwards of 180,000 males, above sixteen years of age, calling on the legislature to pass an act in favour of those principles which the Auchterarder decision was threatening to destroy. The opponents of this powerful movement had been able to muster, at the same date, only 1200 petitioners. Another demonstration, not less significant, in support of the great cause for which the church was so zealously contending, was made about the same period. It had always been a favourite cry of the enemies of the veto-law, that it did a cruel wrong to the licentiates of the church. They had been qualifying themselves at the cost of much money, time, and labour, for the church's service,—and after all, by virtue of this odious law, they were liable to be

Petitions to Parliament signed by 180,000 males within six weeks: only 1200 petitioners on the other side.

CHAP. X. excluded from both office and emolument by an arbitrary expression of the popular will! In other words, they had been qualifying themselves "for the work of the ministry, for the edification of the body of Christ;" and they were liable to have it found and declared that it was not consistent with these ends that they should be intruded upon a christian congregation against its will. Christ's ministers were designed by Him to be helpers of His people's joy, but not to have dominion over His people's faith. And that state of things was hardly compatible with grasping at the fleece, at the expense of outraging and scattering the flock. The students of divinity, to their own honour, and somewhat to the confusion of those who had been wont so feelingly to plead their cause and claims in opposition to the veto-law, declared themselves by an overpowering majority on the side of the church and non-intrusion. The divinity hall of every university in Scotland had its debate and division on the question, and the aggregate numbers were found to be,—245 for non-intrusion, and 30 against it.

The students of divinity declare for non-intrusion by a majority of 245 to 30.

Meanwhile the press was not less busy than the college class-room and the public platform, in reference to this exciting and engrossing theme. Of newspapers, by much the greater number ranged themselves on the side of the courts of law,—and considering how lamentably little our ordinary journalists are accustomed to contemplate any subject through the medium of the word of God, and how slight is their sympathy with the cause of evangelical religion, the fact now noticed can awaken little surprise. There were exceptions, however, even among them, and the influence

The journalists.

which these exerted was by no means to be estimated by the proportion which they bore in point of numbers to those whose weight was thrown into the contrary scale. Hostile from their instincts, rather than from their intelligence upon the subject, the opposing newspapers contented themselves, for the most part, with strong assertions and vehement diatribes: and their battery, accordingly, though its noise was sometimes very loud, neither was well sustained nor did much execution. The friendly newspapers, on the other hand, conducted for the most part by those who were thoroughly at home and in earnest upon the whole question, whether legally, historically, or scripturally considered, maintained a constant and well directed fire: and this circumstance, at least with all those who were really interested in the controversy and wished to get at the truth concerning it, far more than counterbalanced the mere numbers on the other side. Of the journals out of Scotland none rendered more important service to the church's cause at the period now under consideration, than the *London Record*. "Why," said they, after alluding to the powers the civil court had assumed in the Strathbogie case, "if the civil court can, in this case, command the church to ordain or not to ordain,—to suspend or depose, or not to suspend or depose from the holy office,—can continue men in the exercise of the ministry when suspended or deposed by the church,—they can do it in any other. And the enactment by statute that the collation and deposition of ministers is held by the church, *jure divino*, becomes a dead letter, and the authority lodged in the church by its divine Head is

The hostile newspapers.

The friendly newspapers.

The London Record.

CHAP. X. trampled under foot. The weakest and most ignorant body of dissenters in the kingdom would scoff at any authority on earth which would propose to usurp any such authority over them: and is one of the established churches of the land to have the civil magistrate set over them in spiritual matters? To say that they will not consent to it, is wholly an inappropriate and inadequate expression. They cannot do it, if they have any just or scriptural conceptions of their position and of the trust devolved upon them by God and man. The church of Scotland have in this case scrupulously rendered 'to Cæsar the things that are Cæsar's: but they must reserve to God the things that are God's.'"* Such was the clear light in which the real merits of this great controversy presented themselves at the time, to intelligent and impartial onlookers, and the fact is not unworthy of being remembered now.

Among the countless publications of a different kind,—from the bulky pamphlet to the brief and pungent tract,—that were daily issuing from the press, the most ponderous by far was the letter, already noticed, of the Dean of Faculty, Mr. Hope, to the Lord Chancellor of England. "One would positively think," said one of the speakers† at a great meeting held in Glasgow, on the 30th of January, 1840, in support of the church's views, "on reading the alarming insinuations and dark hints scattered through his voluminous epistle, that the Dean had

Dean of Faculty's pamphlet.

* Record, in an article given at length in Scottish Guardian of 10th January, 1840.

† Rev. R. Buchanan of Tron church.

discovered another gunpowder plot. That the chapel act and the veto act, and, above all, the act for uniting our good friends, the old-light seceders, to the church of their fathers, were nothing better than the perilous combustibles which that modern Guy Fawkes, Dr. Chalmers, had been detected busily setting in order for the nefarious purpose of subverting the British constitution; and that, if his lordship did not take care to clap his 'legal extinguisher' on the already lighted match, he might depend upon it the woolsack would ere long be heaved into the air, and the whole legislature, queen, lords, and commons, with the magna charta, bill of rights, trial by jury, and all the other palladia of British freedom buried irrecoverably under the monstrous and many-headed popedom of the general assembly. Perhaps many of my hearers may think I am jesting in so characterizing the celebrated letter of the Dean of Faculty. Let me give you, then, an illustration or two. * * * I have already alluded to what is called the chapel act as a part of the church's present policy, which has grievously offended and alarmed the Dean of Faculty. It was passed by the general assembly in 1834; and I shall explain to you in a sentence or two what is its design, and what have been its effects. Previous to the year I have mentioned, we had a number of chapels of ease whose ministers occupied a very anomalous position,—a position altogether inconsistent with our great presbyterian principle of the perfect parity of all Christ's ministers. Those chapel of ease ministers were allowed to exercise only half of their office. They were allowed to teach but not to rule

Dr. Chalmers, the Guy Fawkes of the conspiracy, discovered by the Dean.

The Chapel Act explained.

CHAP. X. their flocks. They had no kirk-session, and were allowed to exercise no discipline. But, more than this, though ministers of a church, they had no parish. They were left to preach to those who might choose to attach themselves to their ministry, but had no charge of any distinct portion of the people. And though the streets and lanes adjoining their places of worship might be full of ignorance, irreligion, and vice, they had no authority to make a single effort to reclaim one outcast family. The church having been visited, in God's great mercy, with a spirit of revival and reformation, felt herself bound to redress this wrong,—to do an act of justice first to these ministers, by investing them with the full powers of their sacred office; giving them their kirk-session and their place in church courts, that they might share in the government as well as in the teaching of Christ's house. And she felt herself bound, in the second place, to do an act of justice to the people. As the national church, she is charged with the responsibility, so far as she possesses or can obtain the means, to provide for the nation's religious instruction; and, having these chapel of ease ministers at her disposal, she felt herself under an imperative obligation to put them in that position in which they could do most for the people's good. Let us take, then, a single case to illustrate the operation of this chapel act. Take the case of the Barony,—a parish of 80,000 souls. Before the chapel act passed, this enormous parish, in so far as the national church was concerned, had only one minister and one kirk-session to manage its spiritual affairs. There were, it is true, three chapel

Happy results of the Chapel Act.

ministers besides; but they had neither sessions to exercise discipline, nor had they themselves any parochial character. They were ministers merely to those who might come to them. But for any one of all the destitute thousands in that overgrown parish, they had no warrant to care. And what has been the consequence of the passing of the chapel act? Why, that the parish has now fifteen parish ministers, each with his kirk-session and staff of parochial labourers, cultivating each their own portion of that large and important field,—diffusing light and life where before there was darkness and death. Now, what think you, does the Dean of Faculty say of the act of assembly under which all this was done? He denounces it as 'an unconstitutional and unexampled proceeding,'— as a 'usurpation of power,'—such as he is quite sure the Lord Chancellor had never heard anything like in modern times,—as a direct 'interference with the rights and interests of the subjects of the kingdom.' In short, as a very alarming stride in 'the progress of ecclesiastical usurpation.' He says, 'the people are entitled to the services, and to be under the pastoral care, of the parochial clergyman, whom alone the law recognizes as the minister of the parish.' I really pity my excellent friend, Dr. Black, if his small family of 80,000 should take this view of the law into their heads, and employ the Dean as their counsel. Imagine the 14,000 inhabitants of Bridgeton assailing the presbytery with the cry,—'Away with Mr. Fairbairn, and his local church and pastoral care—we want Dr. Black.' And while the cry rises in the extreme east, it is re-echoed from the farthest west. Anderston,

The Dean's account of the Chapel Act.

Application of the Dean's views to the parish of Barony.

CHAP. X. with its 11,000, is up in arms at the 'interference with their rights and interests.' Away, say they, with your M'Gilvrays, and Sommervilles, and M'Morlands! we want Dr. Black. Calton catches up the sound as it reverberates once more across the city, and the 30,000 inhabitants of the densely peopled lanes are demanding, with the same importunity, the services of Dr. Black. What are your Grahams, your Fowlers, and your Eassons to us? we want Dr. Black; the Dean of Faculty tells us we are entitled to his services, and we insist on having Dr. Black! Now really, in sober earnest, is not this worse than folly? to tell 80,000 people that the law entitles them to the spiritual services of one man. And yet this is what the Dean calls the law,—and the church must tell a people perishing for lack of knowledge that she can do no more for them. Or if she presumes to take a more generous view of her duty, and sends forth ministers under all the hardship and inconvenience of an inadequate maintenance, to labour in these too long neglected fields, forsooth, she is to be abused and vilified as chargeable with ecclesiastical usurpation,—as interfering with the rights and interests of the subjects of the kingdom! But bad as was the chapel act, the act anent union with seceders is still more flagrantly wicked. The Dean says, 'in the introduction of this active and persevering class into the church, it is impossible not to see the sure causes both of further pretensions to ecclesiastical power, and of measures most detrimental to the principles of toleration and to the religious peace of the kingdom.' If the Dean had said the principles

The worse than folly of the Dean's doctrine.

The Dean's ominous account of the act of union with the Seceders.

of toleration and the religious peace of the kingdom were endangered by that arbitrary and tyrannical policy which drove the seceders out of the church, one could have understood the charge; but how intolerance should be fostered by an act which emphatically condemns intolerance, and how religious peace should be broken by promoting religious union, must ever remain a mystery in the eyes of reason and common sense. The Dean, however, thinks he has found ample authority for all his alarming anticipations in a document which he largely quotes, and in which he finds sentiments about prelacy, about the treaty of union, and, above all, about the solemn league and covenant, which he thinks far more than enough to frighten the whole bench of bishops—nay, to unsheathe the rusty swords and unfurl the faded banners of the 17th century in a crusade against the hierarchy of England! It is rather unfortunate for this ridiculous outcry,—that it is all founded on a mistake. The document out of which, with lawyer-like ingenuity, he extracts these ominous principles, and which he holds up 'as the original act, testimony, and declaration' of the seceders who have joined the church,—happens not to be their act and testimony at all, but that of a different body of seceders altogether!"

His extracts taken from the wrong document and his charges founded on a mistake.

In truth the bulky pamphlet of the Dean could have done little harm had its circulation been confined to Scotland. The real merits both of the controversy and of the parties engaged in it were too well known in this part of the united kingdom to permit his extravagant assertions and accusations to have any weight with the public mind; but the Dean had

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The causes which made the Dean's pamphlet dangerous.

access to a circle where his opponents could not follow him. He was the personal and confidential friend of several of the political chiefs of the great conservative party, at that time fast rising to the ascendency in parliament, and already almost within reach of the reins of government. And though his letter was formally addressed to the whig lord chancellor, its studied abuse of the measures, the spirit, the designs, and whole character of the evangelical and reforming party in the church of Scotland, were probably meant less for his lordship than for the Duke of Wellington, Lord Aberdeen, and Sir Robert Peel. It was hardly decorous, indeed, for a person of Mr. Hope's professional standing to labour with all the zeal of the bitterest partizanship to pre-occupy the mind of the chancellor upon questions that were, some of them very soon, to come before him for judgment. By inscribing,

The letter full of the prejudice and passion of a partizan.

however, the name of that high judicial functionary upon his unwieldy epistle, he gained the advantage of appearing at least to write simply as a lawyer, when in reality he was writing with all the heat, and acrimony, and blinding bias of a deeply engaged controversialist. Clumsy as the pamphlet was, "entrenched," as Dr. Chalmers happily said of it, "in the mazes of its own confusion," it was not ill calculated for the meridian of secular politicians, especially of that particular class of statesmen for whom it seems evidently to have been more immediately designed. Certain it is, that whatever may have been its effect on the lord chancellor, its influence was as great as it was mischievous in the case of the distinguished conservative leaders already named. So completely, indeed, had it

The influence of the Dean's letter on the Duke of Wellington and Sir Robert Peel.

prepossessed the minds of two of the members of that illustrious triumvirate against all legislative interference on behalf of the embarrassed and struggling church, that it cost the third no little effort to induce them to acquiesce in anything short of a peremptory condemnation of her whole procedure; and with the Duke omnipotent in the house of lords, and Sir Robert Peel check-mating Lord John Russell with a powerful opposition in the house of commons, it was evident that without the concurrence of their political opponents the government could do little or nothing for the settlement of the church's affairs.

Interview of the Church's deputies with Lord Melbourne.

Such was the state of matters in London when the deputies* of the general assembly's non-intrusion committee reached it in the beginning of February. On the 19th, they had an interview with Lord Melbourne at the treasury. "Who are you—from whence do you come?" said his lordship, addressing them as they entered, with that blunt and careless, and yet perfectly good humoured air, that was so natural to this accomplished but somewhat indolent statesman. They had come by his own appointment, and in consequence of communications made to him, which might have been supposed to render these inquiries not very necessary,—but the church of Scotland was a subject a good deal out of his lordship's usual line of thought, and he had not unlikely at the moment forgotten all about it. Satisfied on these preliminary points, his lordship listened to the statement of the case that was submitted to him,—a statement which elicited from him only this very safe remark, that the question was one

* Rev. Mr. Buchanan of Glasgow and Alexander Dunlop, Esq., advocate.

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of great difficulty. The deputies acquiesced,—but signified their hope that now, after having had it so long in view, and considering the expectations his lordship had held out to a former deputation seven or eight months before, the government would be prepared to say what they intended to do. "The law is against you," was the not very direct, though perhaps perfectly diplomatic reply, which the observation drew forth. "Of course it is," they answered, "and hence our application to have it changed." In so far, at the same time, as his lordship's remarks might seem to imply that the law sanctioned the jurisdiction in matters spiritual which the court of session had been recently assuming and attempting to enforce, the deputies were at pains to distinguish between that whole subject, and the single point determined by the Auchterarder decision. As for the fact that the church resisted the civil courts of Scotland in their present attack on the spiritual rights and liberties of the church, it no more proved that the law in that matter was against the church,—than the decisions of the court of queen's bench proved that the law was against the house of commons in their existing conflict. "Yes, I see;" said his lordship, "the cases are similar—questions of jurisdiction." It was more agreeable, however, to his lordship's personal humour, and perhaps also to his political convenience, to escape from the subject in a jest, than to face it in an argument. "It would really appear," he said, laughing, "as if all religious bodies now a days were determined to be above the law. Why, there is Dr. M'Hale in Ireland. We made a law saying, You shan't call yourself Archbishop of

His lordship's remarks on the existing state of the law.

His lordship sees that it is a question of jurisdiction.

His lordship's humorous account of the present pretensions of all religious bodies.

Tuam. 'But I shall, though,' he replies: 'You had no right to make such a law. You didn't give me my ecclesiastical title, and you can't take it from me. I hold it from another, and a higher source.' And again —there is the Bishop of Exeter. We brought in a church discipline bill into the house of lords,—and immediately the bishop starts up and tells us, 'You are interfering with the divine rights of the episcopal office—you are presuming to legislate on matters above the reach of parliament—and if you do, I won't obey your law.' And now, here comes your church of Scotland. You stand upon your spiritual jurisdiction, and won't allow civil authority to touch it. Eh! isn't that it—Eh!" and his lordship laughed heartily at his own joke. The joke after all was probably more than half earnest. It was under cover of just such a light-hearted bantering style his lordship was wont, on other and more public occasions, to unfold oftentimes his real feelings and thoughts. In describing what he considered to be the existing tendency of bodies ecclesiastical, Lord Melbourne was letting out inadvertently the secret as to what is the undoubted tendency of bodies political. To place all ecclesiastical communions in a state of subjection—even in their own internal spiritual affairs—to the secular power, and to use them as tools for merely political ends, is beyond all question the favourite scheme of almost every statesman of the present day. The deputies from the church of Scotland quietly observed, that possibly enough both the protestant and the popish prelate might turn out to be in the right in the particular matters to which his lordship referred: but that without presuming to meddle

His lordship's statement lets out the secret of the present pretensions and aims of all politicians.

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with other parties, the church of Scotland could at least say this for herself—that it was not as against law, but as on the footing of law, she was now resisting, as an established church, the encroachments of the civil power. They related briefly to his lordship the decided stand which that church had made from the reformation downwards for an independent jurisdiction in matters spiritual,—referred to the statutes abolishing the civil supremacy in ecclesiastical affairs, and ratifying the church's right of self-government,—and, finally, reminded his lordship that ecclesiastical tyranny was not much to be dreaded in a church like that of Scotland, whose great offence was that of contending for the privileges of the people,—and which had, in all its courts, as many laymen as clergymen.

The deputies refer to the statutes ratifying the jurisdiction of the Scottish Church.

His lordship having been thus brought back to the grave practical question with which the government had now to deal, if they really wished to prevent the dismemberment of the Scotch national church, he seemed to feel the force of the reasons that were urged for the immediate interposition of parliament. The interview was closed by his giving the deputies an assurance that the cabinet would undoubtedly give its best attention to the subject. Their interview with Lord John Russell, which took place on the following day, was a little more to the point. He admitted that the intervention of the legislature had become indispensable,—that things could not go on as they were: and he engaged to give, on the part of the cabinet, a definite answer as to the intentions of government, by the middle of March. His lordship further expressed his hope, that they would be able by that time to pro-

Interview of the deputies with Lord John Russell, who promises to give the answer of the government in March.

pose a satisfactory measure, — and authorized this statement to be communicated to the assembly's committee. And this was all the progress which the government of the country had yet made in a question affecting the safety of one of the most important of our national institutions! It is true, as has been already noticed, the government was weak,—it could with difficulty command a majority in the house of commons, and it was at the mercy of the opposition in the house of lords. This consideration, however, neither did nor could absolve them from the duty which their position imposed, of attempting at least to put an end to evils and dangers so formidable as those which were convulsing the church, and threatening the religious peace of Scotland.

The weakness of the government in the houses of Parliament did not excuse their neglect of this important question.

While these tedious and vexatious negociations were in progress, an event occurred which served very painfully to show how secondary an object, in the eyes of statesmen, whether whig or conservative, was the stability of the church of Scotland, compared with the strengthening of their own party and political interest. A vacancy occurred in the representation of the county of Perth: and all at once the church question seemed to have started up into first-rate importance. Non-intrusion might turn out to have something to say in returning the member for the Scottish Yorkshire,— and, therefore, non-intrusion found all at once, both whig and conservative, cap in hand, before it; and full of all possible respect and deference. The *Times*, then the powerful organ of the conservatives, suddenly discovered that non-intrusion had undoubtedly carried Scotland,— but coaxingly suggested that the non-

The Perthshire election, and its influence on the Church question.

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Non-intrusion made a hustings question.

intrusion conservatives should unite with high tory moderates to secure the return of a follower of Sir Robert Peel. While on the other hand, a whig candidate, backed by agents of the government, sent down in hot haste from Downing-street, appeared in Perthshire, with non-intrusion for his *cheval de bataille* in the electioneering conflict. To those who had access to see anything of what was going on behind the scenes of the political stage in London, it was abundantly apparent that not the merits of the church question, whether constitutionally or scripturally considered,—nor its connection with the moral and spiritual well-being of the Scottish people,—but simply its bearing on the Perthshire election, was the point of view from which the leading statesmen and politicians of the day were regarding it. And when at length, partly through the great territorial influence of conservative landlords, partly through the high personal character of the candidate himself, and partly from the declarations which he made of his willingness to support a non-intrusion bill, the struggle terminated in favour of the conservative,—it was impossible not to mark the diminished interest with which the question came immediately to be regarded by the political supporters of the government, if not by the members of the cabinet themselves. Non-intrusion proved a less potent spell in the hands of the political conjurors of the reform club than they had anticipated, and in consequence it had become in the eyes of many of them a thing wholly indifferent if not altogether vile.

Diminished interest of politicians in the question on finding that it does not serve their purposes in an electioneering contest.

The conservatives, on the other hand, had gained the victory, and as they conceived, without being at

all indebted to the friends of non-intrusion. Their candidate had not bid so high on that side as the whig, and yet the whig had been defeated. They forgot, indeed, or did not choose to remember, that their own candidate carried non-intrusion colours as well as his opponent; though the legend which they bore was, it is true, neither so explicit nor so comprehensive as that which flared upon the banners of his rival. The whig was for the veto of the congregation, as regulated by the assembly's act of 1834. The conservative was for the presbyterial veto, as described in the speech of Dr. Chalmers in the assembly of the year before. But still, this presbyterial veto was to be free from the control of the civil courts, and such as would enable the church courts to secure, in each case as it arose, that no pastor should be intruded upon a congregation contrary to their will. They also forgot, or failed to bear in mind, that with this latter proposition many of the Perthshire non-intrusionists were induced to close, on the ground of its being given out and universally believed, that the conservative candidate was the exponent upon this subject of the views of Sir Robert Peel and of Lord Aberdeen, who were understood, and not without cause, to be more able than the whigs to secure for their plan the concurrence of the house of the Lords. The whig promise, though much the larger and more liberal of the two, many of the conservative non-intrusionists were disposed to think would prove only a tub to the whale. The conservative, on the other hand, engaged for less; but there seemed so much greater a probability of obtaining the measure which his powerful party were

Non-intrusion had more to do with the return of the successful candidate for Perthshire, than his party were disposed to allow.

Reason why many non-intrusionists supported the conservative candidate.

CHAP. X. believed to have sanctioned with their approbation, that the less, by not a few, was in these circumstances preferred to the greater measure,—on the same principle that an actual *bona fide* cottage would, by most people, be preferred to a *chateau en espagne*.

The conservative chiefs seemed not much disposed, however, to give credit for any share of their candidate's success to non-intrusion at all. Nay rather, they took credit for his having succeeded in spite of it. It was known that Mr. Dunlop, an able and zealous member of the assembly's non-intrusion committee, had gone to Perthshire during the contest, and had cast the weight of his name and influence into the opposite scale. He had gone at the urgent entreaty of friends, electors in the county, who wished to have the benefit of his assistance and advice in judging of the precise import of those declarations, in favour of non-intrusion, which the candidates were giving forth; and naturally enough,—dispassionate people would probably use a stronger word and say that *necessarily* —he decided in favour of the candidate whose declaration went the full length of the church's demands. In all this Mr. Dunlop proceeded on his own private and personal responsibility alone. The circumstance, however, served as a ready excuse, with many of the leading conservatives in London, for considering themselves and their party as extremely ill-used by the non-intrusionists, and for looking more coldly than ever upon their cause and claims. Altogether, it seemed as if the Perthshire election had been destined to show, that in the estimation of contending politicians, the gaining of another vote in parliament was a matter

Mr. Dunlop's visit to Perthshire during the contest.

His visit misrepresented, and turned against the cause of non-intrusion in London.

of unspeakably greater moment than the restoring of peace to the church of Scotland. Patriotism is by no means so strong a principle, even in the highest places of the land, as the love of place and power.

The promised ultimatum of the government.

At length the time arrived when the promised *ultimatum* of the government was to have been given. The "ides of March" came and went, but the oracle continued silent. The deputies of the assembly's committee were again at their post, and reminded both Lord Melbourne and Lord John Russell of their former statement. It was not, however, till after a succession of delays, that at length, on the 26th of March, the same individuals who had represented the committee in February, were again admitted to an interview with Lord John Russell. His lordship explained, as his reason for having kept them waiting long in the ante-room, that he expected to have seen the lord advocate before giving them the answer of the government; but that gentleman not having yet appeared, he was unwilling to detain them longer, and would now therefore, at once, proceed to inform them of the conclusion to which the cabinet, after much consideration of the subject, had come. "They thought," his lordship said, "that they could frame a measure fitted to serve the object the church had in view, and which ought to be satisfactory; but he did not see any reasonable prospect of their being able to carry it through the legislature. There was so much division on the subject in the church itself, in the country, and in parliament, that they despaired of being able to obtain, at present, the necessary support for such a measure as they would be disposed to intro-

Statement of Lord John Russell to the deputies of the Church.

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Announces that the government do not intend to introduce a bill.

duce. By and bye, perhaps, there might come to exist a greater unanimity on the subject, and then it might be in their power to effect what could not be attempted now." The deputies represented very earnestly to his lordship the extreme danger of leaving such a question unsettled,—that every day's delay must serve to aggravate the existing evils, and to increase the difficulty of finding for them any sufficient remedy; and that to leave the civil and ecclesiastical courts in their present state of collision was to expose to hazard interests of the very greatest moment. His lordship appeared to feel all this, and looked both anxious and perplexed when pressed upon the subject,—but he adhered to the answer he had already given.

The deputies had scarcely returned to their hotel when they were followed by the lord advocate, who came in haste to hinder what, however, had been already done a few minutes before,—the forwarding of a despatch to the assembly's committee in Edinburgh in reference to the answer just received from the government. He had been with Lord John Russell since the deputies had left him, and had made a communication to him, on account of which, his lordship was willing that his answer might, if the deputies chose, be held as for the present withdrawn. It appeared that in the course of that afternoon, a meeting had been held of the Scotch members of the house of commons belonging to the liberal side of politics, on the subject of the Scottish church question: and that the decided majority of these members, both in numbers and influence, were of opinion, that the time for legislation had come, and that government ought to

The decision of the government recalled in consequence of a representation from the liberal section of the Scotch members.

move in the matter. Their idea was, that a measure should be indicated in parliament, so far at least, as to get the opinions of the country and of the church regarding it,—and that then it should be allowed to lie over till after the assembly; as the judgment of that body, if strong and decided in its favour, might considerably promote the success of the bill in the house of lords. The lord advocate added, that the scheme of a bill which he had submitted at the meeting had been very cordially approved of. All this he had stated to Lord John Russell the instant the meeting broke up; and it was in consequence of the information thus received his lordship had authorized that message to the deputies of the assembly's committee, which the lord advocate now conveyed.

The proposal which the Lord Advocate had submitted to the liberal Scotch members.

The deputies felt themselves placed by this message in a somewhat difficult position. The session was advancing, and the committee were becoming impatient, lest by being kept dangling so long at the tail of the one political party,—they might lose altogether the proper time for negociating with the other. To re-open their communications with the government, as the deputies were now half invited to do, was to run the risk of being again entangled in interminable and most mischievous delays. It might beget, moreover, among the chiefs of the conservative party, an impression, that the church was throwing itself into the hands of one section of politicians at the expense of neglecting another,—and thus indispose them to meddle with the question at all in the event of its turning out, as the deputies had no doubt it would, that after the lapse of another fruitless interval, the

Communications re-opened with the government.

CHAP. X. government should once more decline to interfere. On the other hand, to refuse to avail themselves of the opportunity thus offered—of dealing still further with the government, would have been to incur a very serious responsibility. This latter consideration prevailed, and on the following day they solicited and obtained an interview with Lord John Russell, in order to avoid any possible misunderstanding as to the circumstances in which the negotiation was to be resumed. At this interview there were also present the lord advocate and Sir George Grey. The lord advocate having gone over the account he had given the day before, of the meeting of the Scotch liberal members, Lord John reminded the deputies of what he had stated at the former interview, that the reason why government declined to interfere was not that they were unable to agree on a suitable measure, but that at present they saw no good prospect of being able to carry it. The information laid before him by the lord advocate had, in some degree, altered the position of matters, at least to the extent of warranting the government to reconsider their decision. He signified at the same time, that there might, perhaps, be some difficulty in consequence of not knowing whether the measure would obtain the approval of the general assembly. The deputies thereupon observed, that the committee represented so fully the sentiments of the majority of the assembly, there could be no reasonable doubt, that whatever the committee sanctioned the assembly would approve. Sir George Grey, a gentleman ever most friendly to the church and to the cause in support of which she was contending, here

A third interview with Lord John Russell.

Statements of Lord John Russell and Sir George Grey.

interposed to say, that he rather thought the uncertainty to which Lord John alluded arose from a doubt, whether the measure contemplated by the government would be found to go far enough to meet the views of those who were acting for the church. To this remark the deputies could only reply, that till they saw the measure they could give no opinion on that point. It was hinted by Lord John, that the measure which the cabinet had in view involved some modification of the veto,—though he did not explain what that modification was. Lord John concluded by saying, that he would bring the whole matter once more under the notice of the cabinet on the following day, and that on the 30th the deputies would receive their final decision. It ended in nothing. The 30th came, and Lord John announced that the government felt itself shut up to the conclusion not to move at present in the affair at all.

Lord John engages to bring the subject again under the consideration of the Cabinet.

It had been the express instruction of the committee to those who represented them in these delicate and harassing negotiations, to know nothing of political parties,—to address themselves equally to whigs, radicals, and conservatives,—so as, if possible, to obtain the support of leading men of all shades of political sentiment, in support of some suitable adjustment of the difficulties of the church. The question had nothing to do with party politics. It was immeasurably above that low and selfish region to which party politics belong. To have brought it down to that level would have been to degrade it, and to destroy at the same time all hope of bringing it to any satisfactory settlement. With parties so nicely balanced

The deputies, agreeably to their instructions, communicate equally with all political parties.

CHAP. X. as then they were, there could be no prospect of a legislative arrangement, save by keeping the question clear of those jealousies and animosities which party questions never fail to awaken upon the arena of parliament. In order to preserve for the great cause entrusted to them, this non-political character, the deputies of the church, as well as the committee which they represented, had been all along in unreserved communication with leading members of the opposition as well as with leading members of the government.

First interview of Lord Aberdeen with non-intrusion committee.

So early as the month of January, Lord Aberdeen, accompanied by Sir William Rae and Sir George Clerk, had held an interview with the assembly's committee in Edinburgh, on the subject of a legislative measure, regarding which an extensive correspondence followed, and in reference to which, the deputies of the committee had frequent intercourse with Lord Aberdeen in London. In his place in the house of lords, his lordship had also more than once spoken in such a manner as to indicate a friendly feeling towards the cause of non-intrusion. On the 6th of February, when presenting some non-intrusion petitions, he took occasion to express himself in the following terms:—"All these petitions prayed that no minister should be intruded on the parishes in Scotland, without the consent of the parishioners. Their lordships perhaps knew in some degree the agitation and excitement that existed in Scotland on the subject of these petitions. He said, in some degree; because he believed that noble lords not personally connected with that country, would find it exceedingly difficult to form any conception of the nature and extent of the

Friendly speech of Lord Aberdeen in House of Lords on 6th February.

feeling which prevailed, in consequence of the proceedings of the church courts and the civil tribunals with reference to this matter. The state of feeling which now prevailed, and of which the noble viscount opposite might be aware, was pregnant with mischief to the good order of society and to the general peace of the country, which must necessarily be affected by it. That was not the occasion to enter into any inquiry as to the nature and causes of those dissensions which now so unhappily prevailed. Nevertheless he should now state his conviction that the principle of what was called 'non-intrusion' had always existed in the church of Scotland,—had always been recognized,—and effect had been given to it, more or less, at different times. The will of the people had, in fact, always formed an essential ingredient in the election to the pastoral office. Those who now adhered to that principle did so, he was convinced, from a sincere and conscientious conviction. The difficulty was to give, in a reasonable way, effect to that popular will when duly and properly expressed, having at the same time a just regard to other rights and interests. He was himself disposed to believe that the church possessed, within itself, the means of regulating this matter; but after what had passed on the subject, he feared no attempt could be made for such a purpose by that body without being called in question. In his opinion, their lordships ought to have recourse to some legislative measure, having for its object to restore the peace of the church of Scotland, and to heal and compose those dissensions which now dis-

His lordship maintains that non-intrusion always existed in the Church of Scotland.

Recommends legislation.

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Lord Aberdeen's views imply that the civil courts had pushed the rights of patrons further than the law warranted.

turbed that country from one end to the other."* It seemed plain from this explicit statement that, in the view of Lord Aberdeen, the civil courts had pushed the rights of patrons farther than the law fairly warranted, and so as to have unduly encroached on the prerogatives of the people. Not, indeed, that he disapproved of the Auchterarder decision. On the contrary, he took the opportunity, in that same speech, of commending it,—that is, in so far as it had condemned the veto-law, to which his lordship always discovered a very decided opposition. But, at the same time, it was manifest, from the language above quoted, that he did not concur in the grounds of that judgment,—that he did not concur in opinion with those judges who had held the call to be a legal nullity, and that except for some defect in the qualifications of the presentee, in respect of "life, literature, and manners," he was entitled to admission. The "will of the people" had, according to Lord Aberdeen, always formed "an essential ingredient in the election to the pastoral office." In a word, his lordship's sentiments seemed as nearly as possible the counterpart of those expressed by Dr. Chalmers in the assembly of 1839. But for the grounds on which the Auchterarder decision had been placed,—first in the court of session, and subsequently by Lords Brougham and Cottenham in the house of lords,—he (Dr. Chalmers) would have been prepared to fall back on the judicial power of the church courts, and

His views substantially at one with those expressed by Dr. Chalmers in the Assembly of 1839.

* See Scottish Guardian, 11th February, 1840.—Report of debates in House of Lords.

thus to have protected the non-intrusion principle by a presbyterial, when he could no longer protect it by a popular, veto. He was deterred from attempting this by the very consideration which was evidently in the mind of Lord Aberdeen when he said, that "after what had passed upon the subject, he feared no attempt could be made for such a purpose by that body (that is, by the church itself, in the exercise of that internal power to which Dr. Chalmers had alluded) without being called in question." In all fairness, therefore, Lord Aberdeen's speech must be regarded as a substantial vindication of the course which the assembly of 1839 pursued, in sisting procedure in the case of all disputed settlements, and in applying to the government and the legislature for a change of the law.

His lordship's speech a substantial vindication of the course the Assembly of 1839 pursued.

When his lordship met with the committee in Edinburgh a short time before, the proposition he had then submitted for their consideration was founded upon the principle of the presbyterial veto,—the principle that is, of empowering the presbytery to decide absolutely and finally upon a view of the whole circumstances of the case, the dissent of the people included, whether the presentee should or should not be admitted to the charge. From the very first, indeed, doubts had existed in the committee whether his lordship's proposition did come up to this absolute veto, or *liberum arbitrium* of the presbytery. Lord Aberdeen himself, subsequently to his personal interview with the committee, in a written communication addressed to their secretaries, of date the 20th January, stated it in the following terms:—

The principle of the plan proposed by Lord Aberdeen to the committee.

CHAP. X.

His lordship's own statement of his plan.

"That the presbytery shall be bound to take a qualified presentee on trials: and in the course of the proceedings previous to ordination, the objections of the parishioners, if any, shall be received and duly weighed by the presbytery: such objections in every case to be accompanied with reasons assigned,—but the presbytery to be at liberty to consider the whole circumstances of the case before them, and to form their judgment without reference to the actual number of persons dissenting, or their proportion to the whole amount of communicants and heads of families in the parish,—the decision of the presbytery, with respect to the fitness of any individual for the charge to which he is presented, to be founded on such full and mature consideration, and to be pronounced on their own responsibility, and according to the dictates of their hearts and consciences. In a word, and to adopt the expression of Dr. Chalmers, it was proposed to recognize a *presbyterial* veto instead of the *popular* veto, which it had been attempted to establish by the act of the general assembly: all proceedings to be liable to review in the superior church courts." Full and unexcepted as the judicial power conceded, according to this scheme, to the church courts might appear, on a first perusal, to be, it seemed to the committee to involve this important and fatal limitation—that it would not be competent to the presbytery to reject a presentee in any case simply on the ground of the continued opposition of the people, unless the presbytery were prepared at the same time to decide in favour of the sufficiency or goodness of the reasons on which the people rested their opposition. Accordingly, on the

He speaks of it as the presbyterial veto described by Dr. Chalmers.

28th of January, the committee wrote his lordship, stating that it was in this sense they understood his proposition,—and adding, that "they have not the power even to entertain such a proposition, involving, as it does, the abandonment of that very principle which the assembly, by whom they were appointed, resolved could not be abandoned." A law, founded on such a basis as the committee then understood the scheme of Lord Aberdeen to rest on, would have substituted the "will of the presbytery" for the "will of the people;" which certainly, whatever might be said of it, would have been to adopt altogether a different non-intrusion from that which the assembly had declared to be coeval with the reformation.

The committee cannot even entertain such a proposition as that which Lord Aberdeen appeared to them to have in view.

In the same letter the committee further explained that "any proposition implying that the church should not have power to reject, simply in respect of the circumstance that the congregation continue to oppose the settlement, they cannot listen to even for a moment." In his reply to this communication, his lordship, on the 1st of February, wrote to the secretaries of the committee in these terms:—"It is very agreeable to me to be able to assure you that you have entirely misapprehended the import of my letter:" he hoped it "would be found sufficiently clear and explicit; and that there is no expression which can fairly be understood to limit or fetter the discretion of the presbytery in the ordination and admission of ministers." To illustrate his meaning his lordship put a case,—and unhappily this case restored the suspicions which the first part of his letter seemed so well fitted to remove. The case taken one way involved the very limitation of

Further explanation of the committee.

Lord Aberdeen assures the committee they have misunderstood his proposition.

CHAP. X. which the committee complained: while, taken another way, it was quite in harmony with the fullest discretion of the presbytery. It might have seemed like rudeness to insist on putting upon the case in question the construction that would have practically contradicted the natural import of the statement to which it was subjoined. The committee, accordingly, in order to combine respect for his lordship with a full understanding as to the point in dispute, *assumed* that the case was meant to be taken in the other sense; in that sense, namely—that was compatible with the absolute veto of the presbytery. "The committee," they wrote, on the 4th February, "are gratified to find that they have so entirely misapprehended your lordship's sentiments, and *they trust they do not misunderstand them now*, in supposing you to agree that the church courts should have the power to reject a presentee on consideration of the continued opposition of the people, although they should think the reasons assigned for that opposition as frivolous as that in the case supposed by your lordship, viz.—his hair being red. Your lordship's proposition thus explained, will receive from the committee an attentive and favourable consideration." His lordship had put an extreme case, but one which, for that very reason, seemed the better fitted to remove all ambiguity as to the extent of the presbytery's power under the scheme proposed. Dr. Chalmers, who had not participated in the original view which the committee took of Lord Aberdeen's proposition, and who at first thought his colleagues somewhat hypercritical and suspicious in the interpretations they had put upon it, had written Lord Aber-

The committee's answer: they hope they do not misunderstand his lordship *now*.

The extreme case put by his lordship seemed well fitted to illustrate the real import of his scheme.

Letter of Dr. Chalmers to Lord Aberdeen.

deen, on the 27th January, at great length upon the subject, and in the course of that communication had said, "On further reflection I am satisfied the gentlemen who brought forward the instance of a dissent being sustained *irrespective of the reasons*, did right; first, because it was fair and honest that you should understand the full extent of the *judicial power* which we desire for the church: second, because though the reasons, as expressed by the people, might none of them be of a very presentable or pleadable character, there might after all be a well-founded dislike on their part, that might prove a most effectual moral barrier in the way of a minister's christian usefulness among them: and third, because unless the measure be of that full and comprehensive nature which may provide for every possible or conceivable instance, and so as to make the presbyterial veto quite absolute,—we shall not be placed quite securely beyond the reach of interference, and so of a collision with the court of session." And again, "We do not say, * * * that we desire the church to be bound in every instance, as by a veto-law, to reject the presentee in respect of a dissent irrespective of the grounds; but that the church will not abandon the power of so rejecting him, if it seem to her right. Short of this we shall be exposed to the same shameful treatment of our people which disgraced the ecclesiastical proceedings of last century, with the fresh danger now of the court of session finding its way, through some opening or other, to the proper business of a church, not secured in the full exercise of her judicial and administrative power in every case that

The Church must have the power of rejecting a presentee simply because of the continued dissent of the congregation.

CHAP. X.

comes before us."* Now it was in reply to this most explicit communication from Dr. Chalmers, and after receiving also the letter quoted above, from the assembly's committee, under date the 4th of February, that his lordship, writing to Dr. Chalmers, on the 6th of that month, made use of the following words:—"I cannot help thanking you for your last letter; with the sentiments expressed in which I almost entirely concur. I am also happy to perceive that you did not misapprehend the import of my former communication. This the committee very unaccountably did; but the matter is now explained, and I am not aware of any material difference existing in the objects proposed by the committee and those which I should be prepared to support."†

Lord Aberdeen's reply: seems to intimate that all parties are now at one.

"Is it possible after all this," the reader exclaims, "either that the committee could have misunderstood Lord Aberdeen, or that Lord Aberdeen could have misunderstood the committee!" Subsequent events will shew: but meanwhile, these explanations may suffice to indicate in what circumstances it was, that the deputies of the assembly's committee in London had been conferring with his lordship at the period now under review. They were conferring with him on the footing of his being friendly to a measure, which, though not going by any means the full length of the assembly's wishes, would at least go far enough to prevent the disruption of the church. There was a

This correspondence will explain the footing on which the deputies were subsequently conferring with his lordship in London.

* Earl of Aberdeen's Correspondence with Dr. Chalmers and the Secretaries of the Non-Intrusion Committee, pp. 14—16.

† Ibid, p. 25.

short time indeed during which he seemed disposed to take a step very much in advance of the proposition he had submitted to the committee. About a week before Lord John Russell had announced the final determination of government, not to move in the business at all, Lord Aberdeen had signified to one of the deputies from the church, that he was becoming more and more inclined to the settlement of the question on the footing of the positive call, as being the true old constitutional usage of the church of Scotland. There can be no doubt this would have been more satisfactory to the church than even the veto itself. In reference to the question—"what proportion of the congregation would be necessary to make the call efficient?"—his lordship admitted, that less than a majority could not well be proposed. All human affairs, he said, were governed by majorities,—and any smaller number would be considered as a mere arbitrary arrangement, resting on no recognized or intelligible principle. Had he adhered to these views, there would, in all probability, have been no occasion to write this history. At their first interview with Lord Aberdeen, after receiving the *ultimatum* of the government, the deputies recurred to this idea of a measure based upon the positive call, and found his lordship still entertaining it. Parliament was then on the verge of the Easter holidays, and when the deputies left London in consequence, they had authority from his lordship to consult the assembly's committee, as to this new idea of giving efficiency to the call. This was accordingly done, at a meeting of the committee held in Edinburgh on the 4th of April,—and their

His lordship indicates a disposition to go further, and to legislate on the footing of the positive call.

The deputies authorized by his lordship to consult the committee as to this more favourable settlement.

CHAP. X. "cordial approval" of such a measure was formally communicated to Lord Aberdeen by the Rev. Mr. Buchanan, on the 6th of the same month. But meanwhile his lordship, unfortunately for the peace of the church, had suddenly and entirely abandoned the project of the positive call. On the very day on which the committee were giving it their cordial approbation, Lord Aberdeen addressed a letter to Dr. Chalmers, in which, after alluding to his "communications with Mr. Buchanan and Mr. Dunlop before their departure from London," he went on to say,—"I had mentioned to them the project of an enactment by which the call should be rendered more effectual, and thus accomplishing the object desired by obtaining an assent on the part of the people. For some time I regarded this project with favour, and was very desirous of carrying it into effect. Further examination and reflection, however, have convinced me that it would be quite impracticable, and I have therefore abandoned it altogether."* What it was that rendered such a measure "impracticable," his lordship did not explain. He had communicated in the interim with those "with whom he is in the habit of acting." If the Dean of Faculty was among the number, the change in his lordship's views ought not to awaken any great surprise. Still the committee had no reason to think, and did not imagine, that his lordship had gone back from the position in which, at the date of their former correspondence, he was understood to stand: and this the rather, that in his letter announcing the abandon-

The committee give it their cordial approval.

His lordship recedes from it.

* Earl of Aberdeen's Correspondence, p. 46.

ment of the project of the positive call, he informed Dr. Chalmers that the measure he had resolved to introduce into parliament, "will be founded on the recognition of the judicial powers of the church courts in the matters in question,—very much in accordance with your own views of that which, though not the most desirable, might be regarded as the most practicable solution of the existing difficulties."

Intimates, in a letter to Dr. Chalmers, that his measure will be founded on the presbyterial veto.

Lord Aberdeen had now ultroneously taken the matter into his own hands. For not only had he, without waiting for any communication from the committee, given notice on the 31st of March, in his place in the house of peers, of his intention to bring in a bill,—but when Mr. Hamilton and Mr. Buchanan proceeded to London in the beginning of April, they were informed by his lordship that he declined conferring with them as a deputation from the committee. Having intimated, at the same time, his willingness to see Mr. Hamilton and Mr. Buchanan upon the subject, as private individuals, and having offered to show them, in that capacity, the draft of his bill before submitting it to parliament,—they deemed it their duty to avail themselves of this only way in which they could now hope to influence the character of a measure which could not fail to have an important bearing on the interests of the church and on the issue of her eventful controversy. It was not, however, till the 28th of April they were made acquainted with the precise nature of the intended bill. On that day his lordship read it over to them at his own residence in London. Being asked their opinion of it, they at once replied that the enacting clauses at the end of the bill

His lordship takes the matter entirely into his own hands.

The bill shown by his lordship to Messrs. Hamilton and Buchanan in their capacity as private individuals.

CHAP. X. seemed much narrower than the declaratory clauses at the beginning of it. Beyond some general statements of the same import, both of them declined to speak more explicitly, until they should have had a copy of the bill in their hands, and time to study it. They did receive a copy on the evening of the following day. The careful perusal of it satisfied them fully that the bill did not give an unfettered discretion to the presbytery in the exercise of its judicial power, and could not possibly be accepted by the church, without an entire surrender of the non-intrusion principle. They accordingly sought and obtained an interview with his lordship, at which they endeavoured, with much anxiety and energy, to induce his lordship to make, what they accounted, indispensable alterations upon the bill. This was on Friday the 1st of May. His lordship had informed them of his intention to leave town on the following day, and not to return till Tuesday the 5th, the day on which his bill was to be laid on the table of the house of lords. Knowing, therefore, that no other opportunity would be afforded them of conferring further with his lordship on the subject, and being fully alive to the mischiefs that must inevitably arise, if his lordship and his political friends should once have committed themselves to the bill as it then stood, they addressed next morning a joint letter to his lordship, which has not hitherto been published. It was in these terms: and serves very conclusively to show how early and how distinctly his lordship was made aware that his bill did *not* come up to what Dr. Chalmers and the non-intrusion committee had again and again declared to be the very *minimum*

They are satisfied that it falls short of the point understood to have been agreed upon, and endeavour to induce his lordship to alter it.

of their principle, and how certainly and inevitably it must, in consequence, be rejected by the church.

"London, 2d May, 1840.

Their letter to Lord Aberdeen assuring him that the bill will be rejected by the Church, unless altered in the manner suggested by them.

"LORD ABERDEEN,—At the interview with which your lordship was pleased to honour us yesterday, we endeavoured, though we fear very imperfectly, to impress upon your lordship's mind, that in suggesting a series of alterations on the draft of the bill which your lordship proposes to submit to the house of peers on Tuesday next, we were actuated by nothing but the most sincere and earnest desire to promote the success of your lordship's measure, and to aid in realizing the great object which has engaged so much of your solicitude.

"We consider it to be of so much importance, at the present moment, to remove from your lordship's mind all doubt as to the nature of our motives, that we are induced, in this more formal and deliberate manner, to reiterate the assurance which we personally gave to your lordship yesterday, and to state that every consideration combines to awaken in our minds the deepest and most intense interest in the success of the undertaking in which your lordship is engaged, and that we were impelled to offer the suggestions which we submitted to your lordship solely from a conviction that their adoption is absolutely indispensable to the attainment of your object.

The friendly spirit in which their suggestions are offered.

"As we stated to your lordship,—we have no authority to bind the church of Scotland,—nor are we in a situation positively to pledge ourselves as to the course which the church may pursue under any given circumstances. At the same time we have, both of

CHAP. X. us, endeavoured, throughout the whole controversy, to preserve our minds free from partial or extreme views, and from every degree of undue warmth that might tend to disturb the exercise of our judgment,—while from the circumstances in which we have been placed, we have had peculiar opportunities of becoming acquainted with the views and sentiments prevailing in the church, and of estimating their probable influence on her course of conduct.

"It is in these circumstances that we ventured to state it to your lordship, as our united and most decided opinion, that the bill, as submitted to us by your lordship, *would infallibly be rejected by the church, and by a large majority of the ensuing general assembly:* while, on the other hand, our opinion is not less decided that the bill, if modified according to the suggestions which we found it necessary to offer—and more especially, if by being read a second time, the principle embodied in it shall have obtained the sanction of one branch of the legislature before the assembly meets,—would be acquiesced in by the assembly in such terms as would be satisfactory to your lordship, and as would be fitted and designed to secure the success of the bill in both houses of parliament. If the bill, therefore, should remain unaltered, we can expect no result from it but immediate disappointment to your lordship's excellent intentions, and a continuation of those ruinous distractions which it is so desirable to terminate. Whereas, should your lordship be induced to modify the measure in the manner we have recommended, there is every reason to hope that there will be accomplished, through your lordship's instrumentality, the happiest deliver-

If modified as proposed, the bill would be accepted,—but not otherwise.

Appeal to his lordship.

ance to the church and country from evils of the most appalling magnitude. CHAP. X.

"We have no intention of repeating here any of the statements which we ventured to make, though most imperfectly, to your lordship, with the view of obviating any objections to the adoption of the alterations which we suggested on the bill,—and which alterations all follow, as matter of course, if your lordship should resolve to adopt the modification in the principle of the measure which we recommended as necessary.

If his lordship agreed to the modification in the principle of the bill, the other alterations would follow as matter of course.

"We understood your lordship to say, that you did not consider the alterations, or the modification of principle involved in them, to differ essentially from what you had all along intended to embody in your bill. The difference, however, is one upon which the earnest attention of the church has throughout been fixed,—involving, as it does, the vital question—Whether or not the church courts are to be left free to exercise an unfettered judgment as to the circumstances in which it is proper for them to confer ordination, and induct a minister into a pastoral charge. This unfettered judgment we understood that your lordship wished and intended to recognize; and if such be your lordship's view on the one hand, we can on the other assure you that the alterations suggested as being indispensable to give it effect, are not less indispensable in order that the measure may satisfy the conscientious convictions of a very numerous, a most intelligent, and most influential body of men in Scotland. There are some, but comparatively a small number, who might be disposed to call out for measures of a more extreme nature,—but if your lordship

The vital importance of the modification proposed.

CHAP. X. succeeds in satisfying the conscientious convictions of the numerous and important body to which we refer, your lordship may justly consider that you have realized your great object of terminating a painful and momentous controversy, and placing one of the most invaluable institutions of the country on a safe and permanent basis. We have the honour to remain, &c., &c.,

(Signed) ROBERT BUCHANAN.
JOHN HAMILTON."

Most readers of this history will wonder that so moderate a concession should have been refused.

To most of those who dispassionately study this history, it will probably appear extraordinary that a concession so moderate should have been refused. From the preceding narrative it will be sufficiently apparent that Dr. Chalmers and the non-intrusion committee fully expected that Lord Aberdeen's bill was to have embodied that concession. It was only on the understanding, that the measure which had been the subject of correspondence between his lordship and the committee was to go the full length of the concession, that they had consented to entertain it at all. Even if it had done so, it would still have been open in many respects to serious objection. It would have placed the church courts in a position very liable to be both misrepresented and misunderstood. It would have been a plausible thing to say of it, that it secured the power of presbyteries at the expense of surrendering the rights of the congregation. And the only circumstance that could have been expected to protect the church from the injury to its own character and influence likely to result from such an insinuation was the confidence which the

The Church would have been exposing itself to the risk of serious misconstruction, in consenting to accept it.

people had learned to repose in the church's integrity. Already the controversy had given them ample evidence of the entire disinterestedness of the evangelical clergy, and of the sincerity and earnestness with which they were seeking to protect the spiritual liberties of their flocks. They had made it manifest, moreover, that if a more full and direct recognition of popular rights should not be obtained from parliament, it would not be due to any want of zeal and energy on the part of those who were conducting the church's affairs. They had done what they could to obtain a legal ratification of the veto-law itself, and if they acquiesced in a measure of a less satisfactory nature, they would be entitled to credit when they affirmed that their doing so was dictated both by necessity and duty. So long as they should be left free to decide, absolutely in every case as it arose, whether they would or would not ordain and induct the patron's presentee, it would be impossible to say that their conscience was coerced in the settlement of any minister, or that the principle of non-intrusion had been overborne by the civil power. When the choice, therefore, came to lie, as it seemed at the period in question to do, between such a measure and the dismemberment of the established church, few will be disposed to think the authors of the foregoing communication did wrong in assuring Lord Aberdeen, as they did, that on the footing of that measure, he might have hoped to effect a settlement of the church question. At all events, no one can allege, after reading the account now given of Lord Aberdeen's bill, that the

Her only protection against that misconstruction, to be found in the people's confidence in her integrity.

Reasons why the Church might and should have accepted the measure, if modified as proposed.

CHAP. X. settlement was hindered by extreme views on the side of the friends of the church.

Lord Aberdeen had no doubt his reasons for refusing to make the change upon his bill that was pressed so urgently upon him,—nor would it have been very difficult perhaps to conjecture what those reasons may have been. It is not, however, so easy to understand why it should have been necessary to propose such a change, after all that had passed between his lordship on the one side, and Dr. Chalmers and the non-intrusion committee on the other,—upon the very point to which the proposed change referred. They thought they were yielding much for the sake of peace, in consenting to come down to the point of an absolute presbyterial, instead of an absolute popular veto: and their surprise was not small on finding that Lord Aberdeen had by no means come up to it. Somehow or other they had been playing at cross purposes. They meant one thing, and as it turned out in the end, Lord Aberdeen must have meant another. In going over the correspondence it is not easy to discover where or how the ambiguity crept in; and yet certain it is, that with all the efforts at explanation that were made, they had not perfectly succeeded in understanding each other. Words must have been employed which continued all along to convey one sense to the one party, and another sense to the other.

Difficult to understand why it should have been needful to ask for a modification understood to have been agreed on all along.

The misunderstanding all but inexplicable.

Without accepting the modification pointed out as a *sine qua non*, in the letter of Messrs. Buchanan and Hamilton, Lord Aberdeen introduced his bill into the house of lords on the 5th of May. The same night

The bill brought in unaltered.

he addressed a letter upon the subject to Dr. Chalmers, in which, after speaking of the bill in general terms, and of the difference of opinion likely to exist concerning it, he said—"After all, however, I am well aware that the success of this measure will mainly depend on the reception with which it may meet from yourself; for although, from the accident of birth and social position, I have had the means of proposing this measure to the legislature, it will depend on you whether it is to receive life and efficiency." So soon as Dr. Chalmers had seen and studied the bill he replied as follows:—"I have now examined the bill, and it is with inexpressible grief and concern that I am forced to confess myself disappointed. Such is my intense desire for adjustment and peace, that all my tendencies were on the side of putting the most favourable construction on every clause, and of labouring to harmonize, with all my might, its various provisions, with that independence which belongs to a christian church, and which we did not renounce in the act of becoming a national church. I little thought, my lord, after my incessant attempts all last year to bring down others to the point at which I conceived your lordship willing for a settlement, I should have met with a fresh obstacle in finding that your lordship has taken up a position so much lower than I was counting on." * * * "The three things which are fatal to the bill are, first, the obligation laid on the presbytery to give its judgment exclusively on the reasons, instead of leaving a *liberum arbitrium* in all the circumstances of the case." * * Secondly, because the bill, in its whole tone and structure, subordinates the church to the civil power in

Lord Aberdeen's flattering letter to Dr. Chalmers.

Dr. Chalmers' reply: his utter disappointment with the bill.

His three fatal objections to it.

CHAP. X.

things spiritual." * * * "Thirdly, it is substantially the same measure with that which was moved for by Dr. Cook and rejected by the church." Along with this letter Dr. Chalmers transmitted a copy of the bill, with notes of the alterations which he deemed indispensable, and which were substantially the same as those previously proposed by Mr. Buchanan and Mr. Hamilton. Lord Aberdeen, in answering this letter, expressed his conviction that Dr. Chalmers was "under a misapprehension in supposing that the bill limits or restricts" the "*liberum arbitrium* of the presbytery in the matter of collation." "Your lordship," wrote Dr. Chalmers in reply, "seems to think that the bill, as it stands, does not limit or restrain the *liberum arbitrium* of the presbytery. Now it appears to me that it does so in one most important particular. The presbytery are restricted by it from giving effect to the conscientious dissent of the people, on the ground of the simple fact of that dissent and irrespective of reasons." * * "The church thought so much due to the conscientious dissent of the people, that it passed a law, making it imperative on presbyteries to give way to such a dissent *in all instances whatever*. By rescinding that law this ceases to be imperative; but your lordship's bill does not stop at this point. It furthermore lays down such a restriction as makes it imperative on the church to give effect to such a dissent *in no instances whatever*. How is it possible so to revolutionize the mind of the church, that after thinking so well of a principle as to have framed the device of a veto-law, for the purpose of giving universal and unexcepted effect to it, she shall go round to the

Dr. Chalmers returns the bill with the necessary alterations marked upon it.

Another letter from Dr. Chalmers to Lord Aberdeen regarding the bill.

diametrically opposite point of the compass, and submit to a restraint by which she is expressly tied up, and it becomes impossible for her to give effect to that principle in any case, however conscientious she judges the dissent to be." This statement, after some further correspondence regarding it, elicited at length the irreconcilable difference which subsisted between the views of Lord Aberdeen and Dr. Chalmers. His lordship, in a letter dated the 21st of May, observes—

The irreconcilable difference between Dr. Chalmers' views and those of Lord Aberdeen, at length appears.

"I repeat that I have not the slightest wish or intention to restrict, in any manner whatever, the *liberum arbitrium*, as you call it, of the church courts. In whatever manner it exists, according to law, so let it remain." Of course, if the law as interpreted by the late decisions had left to the church courts the free and full discretion Dr. Chalmers was seeking to secure, there would have been no need for Lord Aberdeen's bill. To say, therefore, "in whatever manner" that discretion "exists according to law, let it remain"—was to say nothing to the purpose which all along Dr. Chalmers had had in view. But Lord Aberdeen made himself still more explicit, when he went on to say, "Let me recall to your recollection what is the state in which I find the church. The house of lords, in affirming the judgment of the court of session, has declared that a presbytery, by rejecting a presentee on the sole ground that a majority of the male heads of families have dissented, without any reasons assigned, from his admission as minister, act illegally, in violation of their duty, and contrary to the provisions of the statute. Now this restriction is not imposed by my bill, but by the existing law of the land. I apprehend

Lord Aberdeen's apology for his bill is precisely what condemns it.

CHAP. X.

that no presbytery will be permitted in future to reject a presentee on such grounds; and it certainly was never my purpose to enable them to do so." No one is entitled to say it was, since his lordship so explicitly denies it; but, at the same time, few who read the correspondence will wonder that, up till that time, Dr. Chalmers should have been of a different opinion. So long before as the 27th of January, Dr. Chalmers had written to his lordship—"We are willing that reasons should always accompany dissent, and that these reasons should be dealt with and canvassed to the uttermost; but we are not willing that we should be bound to admit the presentee if the people do not make good their reasons. On the contrary, we hold ourselves *free*, though not *obliged*, to exclude a presentee because of the strength of the popular dislike, though not substantiated by express reasons." And again, in the same letter, "We do not say in that reply (of the non-intrusion committee) that we desire the church to be bound in every instance, as by a veto-law, to reject the presentee in respect of a dissent, irrespective of the grounds; but that the church will not abandon the power of so rejecting him, if it seem to her right." It was about the same period the committee itself, in the already noticed official communication signed by its secretaries, Mr. Candlish and Mr. Dunlop, hoped they did not misunderstand his lordship's intended measure in supposing it to leave the presbytery free to reject a presentee "in consideration of the continued opposition of the people, although they should think the reasons assigned for that opposition as frivolous as that in the case sup-

Reasons for wondering that Lord Aberdeen did not find out sooner what Dr. Chalmers meant.

The explicit statements of Dr. Chalmers on the subject.

The statement of the committee.

posed by your lordship—viz., his hair being red." What did or could Dr. Chalmers and the committee intend by such language but to signify their understanding that the dissent of the congregation, alone and of itself, was to be a valid ground of rejection under the intended bill, in every case in which the presbytery thought fit to hold it as such? It was with both of the statements before him,—that of Dr. Chalmers and that of the secretaries of the non-intrusion committee,—that Lord Aberdeen expressed himself, in a letter to Dr. Chalmers, as being "happy to perceive that he (Dr. C.) did not misapprehend the import of his (Lord A.'s) former communication." "This," his lordship added, "the committee very unaccountably did; but the matter is now explained, and I am not aware of any material difference existing in the objects proposed by the committee and those which I should be prepared to support." It would seem, however, that a serious difference must have been lurking all the while beneath the surface of this apparent agreement. Certain it is the non-intrusion committee might as well have attempted to square the circle as to harmonize what turned out to be Lord Aberdeen's views with theirs. They were bent on having, at the very least, liberty to reject a presentee solely because of the continued dissent of the congregation; and Lord Aberdeen was equally bent on making this impossible. Perhaps the secret of the otherwise unaccountable misconstruction of each other's meaning may have lain in the use of the expression "*judicial powers*" of the church courts. By the committee and Dr. Chalmers that expression

Nothing could be meant by these statements, but to require that the dissent of the people should of itself be a valid ground for rejecting the presentee.

No possibility of harmonizing views so opposite as those which it now appeared Lord Aberdeen entertained, with the views of the committee.

CHAP. X. was manifestly employed in contradistinction to the legislative powers exercised by the assembly in laying down the rule of the veto, according to which presbyteries were in all cases bound to proceed. They meant that the presbytery should be free in the exercise of its own judgment as to what was fit and right in the circumstances,—to do in *any* case what the veto-law would have compelled it to do in *every* case. It would seem, on the other hand, as if the expression in question must have conveyed to Lord Aberdeen a sense somewhat different. Construing the term judicial in a more rigid and technical way, he appears to have clung to the idea that it must, somehow or other, tie up the presbytery to a judgment upon the reasons of dissent. Many things passed, it is true, in the course of the correspondence which it is not easy to reconcile with this theory; but, on the other hand, there are qualifying expressions here and there in his lordship's letters which suggest the idea that this must have been the true source of the misunderstanding. Certain it is that any solution of the mystery that can be held to be admissible at all, is infinitely preferable to the offensive supposition of either party having intentionally misled the other. The character of Dr. Chalmers,—so ingenuous, confiding, and generous,—places him immeasurably above the reach of such an imputation; and no one can read the correspondence of the non-intrusion committee without being satisfied that their great and constant anxiety was to guard against any misunderstanding on their side as to the views of Lord Aberdeen, and on his as to the views of the committee. On the other hand,

A possible explanation of the misunderstanding.

Any supposition preferable to one that would impute to either party a design to deceive the other.

the integrity and honour of Lord Aberdeen will not allow any candid mind to interpret his proceedings in a way that would bring his sincerity into suspicion.

The discovery now made brought the negotiations to a close.

The difference which had thus at length come so fully out between his lordship and the non-intrusionists was such as of necessity to bring their negotiations to an end. To have acquiesced in the principle of his bill, would have been to give up both non-intrusion and spiritual independence. The bill disallowed the dissent of the congregation, and required the church courts to admit and ordain a presentee notwithstanding of such dissent,—unless indeed they came to be of opinion that, in all the circumstances of the case, the reasons assigned by the people in support of their dissent were such as to justify and require his rejection. This, of course, implied that not the will of the congregation, nor even the will of the presbytery, should regulate the decision. It implied that the presbytery were competent to overbear the opposition of the people to the settlement of a particular minister, however conscientious that opposition might be; and, moreover, that they would be bound against their own will, and their sense of duty too, to overbear it, unless they themselves, having judicially investigated and considered the reasons on which it rested, were prepared to pronounce the reasons to be sufficient. This was not the non-intrusion of the church of Scotland. According to that principle, as expounded and maintained by the church, it was the right and duty of congregations to say whether a particular minister had gifts and qualifications fitted to edify their souls. And it

What the bill implied.

CHAP. X. assumed, that when a congregation honestly and deliberately said *No*, to that question,—the church court was not entitled to lord it over God's heritage, and to usurp dominion over their faith, by thrusting the obnoxious minister upon them notwithstanding: telling them, in a tone of popish dictation and supremacy, "We know better than you,—we think he can edify you, and that is enough." Not less certain is it that the principle of Lord Aberdeen's bill would have been fatal to the independence of the church in matters spiritual. According to the bill, it would matter nothing that a presbytery thought the settlement of a particular minister fitted to outrage the strongest convictions and best feelings of the flock, to bring reproach on the cause of religion, and to drive the people away from divine ordinances. It would matter nothing that for such reasons they might regard it as contrary to the will of Christ, and therefore sinful, to proceed. The bill made it imperative that the settlement should go on, unless the presbytery were prepared to take the responsibility of deciding that the reasons against the settlement urged by the people were, all things considered, sufficient reasons,—a responsibility which they might not feel themselves either called on or competent to take.

The bill would have been fatal both to the privileges of the people and to the freedom of the Church courts.

CHAP. XI.

THE ASSEMBLY OF 1840; THE REJECTION OF LORD ABERDEEN'S BILL, &c.

The bill welcomed by the moderate party.

In Scotland the bill was hailed by the moderate party with unmingled delight, while it called forth among the non-intrusionists universal dissatisfaction. The first public discussion it underwent, took place in the provincial synod of Lothian and Tweeddale, on the 13th of May, a week after it had been laid on the table of the house of lords. After an elaborate and able exposition of its real character and design, a motion was carried in that synod by a majority of sixty to twenty, to overture the general assembly "to take steps for opposing the bill, and preventing its being put into a law." In the general assembly the debate regarding it came on upon the 27th of May. It was opened by Dr. Chalmers in a speech which occupied three hours in the delivery. Speaking in the earlier portion of it upon the cardinal question of the church's spiritual independence, and the necessity of resisting, at whatever cost, any and every legislative measure which left it exposed to the ruinous encroachments of the court of session, he said,—"The leading principle of presbyterianism is that there is a distinct government in the church, and which the state must have approved of ere it conferred on her the temporalities,—and we must be as uncontrolled by the state, in the management of our own proper affairs, as if we did not receive a farthing from the treasury.

Meeting of the General Assembly.

Speech of Dr. Chalmers.

CHAP. XI.

Her distinct government the glory of the Church of Scotland.

* * * I take this principle to be the peculiar glory of the church of Scotland. We contended for it during the struggles and persecutions of more than a hundred years, and the principle has cost so much that we are not willing to let it go; and if the state should require us either to give up this principle or to forfeit our endowments—we are willing to try the same experiment and to adopt the same course over again. That principle has not been forgotten though it has remained dormant,—though it has faded from the recollection and the feelings of general society. Like some old charter that has slumbered in its repository while its articles were unbroken, but which the rude hand of violence has called from its oblivion, quickened anew into vigour and vitality, and caused to assume all its grandeur in the eyes of the people,—so this grand fundamental principle of the church of Scotland, the principle of the exclusive jurisdiction of the church in matters spiritual,—once familiar, as Bishop Burnet tells us, as a household word in the mouths of the peasantry of our land,—has faded in the quiet of centuries, and has fallen from the memories, the feelings, and even the understandings of men. * * * It was the disturbance given them, by late proceedings, which has roused the church, and will at length rouse the nation from its dormancy. It was when, for the first time, those elementary questions which we thought were in the days of our great grandfathers settled and set by, were conjured and stirred up again, that our minds were gradually opened to the truth; and I doubt not that the agitation of this controversy, at the present period, will flash more vividly

The conflict familiarizing the people of Scotland once more with the principles of their forefathers.

and more convincingly the same truth into the understandings of the community. Our ark is in the midst of conflicting billows, but our flag is all the more unfurled by the storm which has been raised; and now spread abroad and expanded by the gale, it only serves to make the motto of our establishment more patent to all eyes,—the Lord Jesus Christ is the only King and Head of our church. We have nailed that colour to the mast, and we will keep by it in all its fortunes, whether in the tempest or in the sunshine." Referring, further on, to the bearing of this principle on the question of the lawfulness of church establishments. "The radicals and voluntaries," he exclaimed, "know well, that if we give way by ever so little,—if we make the smallest, though it were but a quit-rent acknowledgment of the supremacy of the civil court,—if we make but the semblance of submission to the civil power, they know well, they know that the minutest fraction of such an appearance would eat as a cankerworm into the heart of any state religion,—the contaminating flaw would putrify and pulverize to the dust every national establishment of christianity within these realms. It is a grievous thing to be thus thrown back by people within the camp,—by professed friends to the cause of religious establishments,—I say, it is grievous to be thus thrown by them upon the original elements of this question; and when we had gained the cause of church establishments on the field of argument with the voluntaries, to have the victory thus wrested out of our hands. I felt it a proud thing that we could go forth and plead the cause of church extension, strong in the sense of our spiritual indepen-

The storm is but unfolding the banner, and making its legend more legible.

To yield would be to destroy the Church.

CHAP. XI. dence; when we could make it as clear as day, that though the ministers of our establishment take their maintenance from the state, they take all the articles of their creed, as well as all the principles and practices of their ecclesiastical polity, from the bible.

Hard that the best argument in favour of establishments should be taken away by the professed friends of establishments.

It is hard, that this argument, the most silencing of all others to the enemies of a state religion, should have been taken from us by a new class of adversaries who have sprung up from among ourselves,—who have spoiled us of our armour, and have made us say, in the language of scripture—'how are the weapons of war perished.'"

Passing from the spiritual independence principle to that of non-intrusion, and coming into closer quarters with the bill, Dr. Chalmers, after describing it, observed —"I cannot figure a more truly extraordinary result coming out of such an application for relief, from a hardship imposed on the church by a sentence of the court of session. Application for a remedy, you will observe, and that against a grievance which she prays might be removed, even an unexpected obstruction which has been thrown in her way when carrying into effect by a particular method she had herself devised, —I mean the veto-law,—one of her great constitutional principles—that no man shall be intruded into a parish contrary to the will of the congregation. It, of course, is quite understood between the parties, that on a satisfactory substitute being found, the church will rescind her veto-law. Now how has this application been met? Not by a substitute, enabling the church to give effect in another way to a principle which she stands solemnly pledged before God and

The Church has applied for a remedy, and this bill inflicts a wrong.

the country never to abandon, and which would lead at once to a rescinding of the veto-law; but to a truly different thing, sir, and which were tantamount to the entire and authoritative reversal of that law; and by overlooking the total diversity of import between these two things, to rescind and to reverse, we are presented with one of the strangest specimens of a sort of interchange,—under the semblance, too, nay, with the honest design, I believe, of conferring a benefit,—which ever took place between two corporations residing within the limits of the same territory, and professing the greatest mutual value and deference for each other. For how does the matter stand? We, the church, think so well of a principle, that we raise it above the level of other and ordinary principles, by embodying it into a law; and, under the sense of its universal and unexcepted worth, ordain that it shall be carried into effect in all instances. Now, how is this followed up? They, the state, must think so ill of the said principle, that, not satisfied with casting it back on its old platform, along with the other principles on which the church is free, though not bound, to act in the settlement of ministers, they dishonour and degrade it below the level of all the rest, and, under the sense of its exceeding worthlessness, ordain that it shall be carried into effect in no instances. Let it not be said that we may give effect to the dissent of the people on reasons shown. This we could do at all times,—pronounce on reasons: and Lord Aberdeen has truly said that he gives no additional powers to the church by his bill. Yes, and by calling his a declaratory act, and leaving untouched

The Church would have the dissent of the congregation to avail in all instances,—this bill will allow it to avail in none.

CHAP. XI.

The bill not only gives no powers to the Church, but it takes powers enjoyed from time immemorial away.

the decision by the court of session, from which we seek to be relieved, he as good as takes away a power which, for 150 years, had never been denied to us. He casts beyond the bounds of the *liberum arbitrium* a rejection on the fact of the popular dissent,—a principle in our eyes of such exceeding value that, a few years ago, we elevated it from the judicial to the legislative rank; and his lordship's way of retracing this movement is not to conduct it back again to the place it had among its fellows, but to cast it, conclusively and for ever, into the gulph of annihilation. He will allow us to take into consideration all the other circumstances but this: or, in other words, should the ecclesiastical legislature think so well of a principle as to raise it into a universal category, that is the signal for the civil legislature to knock it on the head. And thus, sir, the notable result, the reaction on our attempt to obtain protection and safety for a principle which we have resolved never to abandon, is the entire and irrecoverable extinction of it." After reading some part of the more recent correspondence regarding the bill which had taken place between himself and Lord Aberdeen, bringing out that essential disagreement between them which has been already explained, Dr. Chalmers concluded by proposing a series of resolutions for the adoption of the house. The *first* of these resolutions declared the church's unchanging determination to "assert and maintain the exclusive jurisdiction of the church in all matters spiritual," recognizing at the same time the supremacy of the civil courts in all matters touching the temporalities of the benefice. The *second*, in similar terms,

Resolutions proposed by Dr. Chalmers.

First: The jurisdiction of the Church.

proclaimed the firm purpose to "assert and maintain the great and fundamental principle of non-intrusion," signifying at the same time the utmost willingness to consider any modification of the provisions for carrying that principle into effect that were not inconsistent with the principle itself. The *third*—"Having considered the bill, entitled 'an act to remove doubts respecting the admission of ministers into benefices in that part of the kingdom called Scotland,' recently introduced into the house of lords, resolved—That while it makes no adequate provision, either for securing the exclusive jurisdiction of the church in matters spiritual, or for enabling the church to carry into effect the principle of non-intrusion, according to any specific law, the bill does not even leave the church courts at liberty in the exercise of their judicial functions, and on their own responsibility, to give effect to their own solemn convictions of duty in refusing to intrude presentees on reclaiming congregations; nor does it protect them from civil coercion and control, when, in any particular case, they shall do so; and, therefore, inasmuch as this bill is inconsistent with the principles of the church, and threatens, if passed into a law in its present form, to produce effects which may be fatal to the church as a national establishment,—the general assembly cannot acquiesce in this bill, unless it be so altered as to be in conformity with the principles now expressed; and that it is the duty of this church to use every effort to prevent its obtaining the sanction of the legislature." The *fourth* resolution approved generally of the proceedings of the non-intrusion committee, whose

Second: The principle of non-intrusion.

Third: The bill condemned.

Fourth: Proceedings of non-intrusion committee approved.

CHAP. XI.

report had been the formal occasion of bringing on the discussion, — appointed a committee to watch over the progress of any bill which might be brought into parliament on the subject,—and authorized this committee, "if they see cause, to bring before the legislature, in any competent way, the draft of such a measure as may appear to them best suited for the purpose in view." The first speaker on the other side was Sir George Clerk. Enjoying the confidence of the political chiefs of the conservative party, there can be little doubt this experienced member of the house of commons had come down from parliament, partly to be the exponent of the views, and if need were, the defender of the proceedings, of Lord Aberdeen; and partly to aid, by his talents and knowledge of affairs, in carrying a vote of the assembly in favour of the bill. Though an elder of the church, it was the first time he had ever occupied a place in its supreme court. Sir George "felt as strongly as any man their obligation to maintain the sole headship of our Lord and Master, and he trusted that he should not be considered one of those who were ready to make such a declaration, and to rest satisfied with so doing,—but that he would be found, on any occasion when the banner inscribed with the motto, 'For Christ's crown and covenant,' must be unfurled, as ready to enlist under that banner as the reverend gentleman." The honourable speaker, however, left the house in no uncertainty as to the value of this testimony, when he immediately added, that "he doubted very much whether there was any occasion now to hoist that flag." Lethendy and Strathbogie combined had failed

Instructions to the committee.

Sir George Clerk,—the probable object of his presence in the Assembly.

Is resolved to maintain the doctrine of the Headship of Christ.

Sir George doubts if it has been assailed.

to satisfy Sir George that the proper *casus belli* had arisen. The court of session had dragged ministers of Christ to its bar, and threatened them with imprisonment for ordaining a minister to a cure of souls; and had interdicted the preaching of the gospel in a whole district of country, except by men whose ministerial functions had been suspended by the sentence of the church. But in all this there was nothing, in Sir George's opinion, that touched the question of the Headship. The "occasion" had not yet arrived for unfurling the banner, nor did the honourable baronet signify what those circumstances were in which it could at any time be said to have actually come. Such declarations in favour of a great principle are like bills made payable at the Greek kalends. They read well enough, but they never fall due.

Neither Letterndy nor Strathbogie interdict enough to convince him.

The value of such declarations in support of the Headship.

Speaking of the bill, Sir George remarked that it did not "take away any right inherent in the church, if such right were inherent, of an unlimited power of rejecting a presentee. The power of the church had been limited by the interpretation of the civil court in one particular, and one only. It had been decided that the rejection of a presentee, merely on account of the dissent of the people without reasons, was illegal, and beyond the power of the church. It was, therefore, perfectly clear that if Lord Aberdeen was to embody an opposite interpretation in this declaratory act, it would be impossible for him to call on the house of lords, in its legislative capacity, to declare that the mere fact of the dissent of the heads of families of a parish was a reason for rejecting a presentee: while the house had only a few months before,

Admits that Lord Aberdeen's bill was not meant to grant anything which the Auchterarder decision had taken away.

CHAP. XI. in their judicial capacity, declared that such was not the law of the land." Most true,—but who required this thing of Lord Aberdeen, that he should proceed in the way of a declaratory act? "The right honourable gentleman had defended the bill," said Mr. Dunlop, replying to the baronet's speech, "on the ground that it was a declaratory act. Why—were they not struggling against a declaration of the court of session,—a declaration of the law as it stood. They had been opposed by that declaratory finding, and they had sought relief. In these circumstances, the Earl of Aberdeen professed to come to their aid,—but what was the aid he offered them? To rivet upon them, by his declaratory enactment, that very law against which they were contending as a grievance." Mr. Dunlop alluded to the provision contained in the bill on account of which some superficial readers were tempted at first to conclude, that whatever else the bill did, it at least protected the church from the interference of the courts of law. It enacted that the appeal from any sentence pronounced under this proposed law, "shall be exclusively to the superior ecclesiastical courts, according to the forms and government of the church of Scotland as by law established." "This provision," continued Mr. Dunlop, "was said to protect them from all aggression, from all interference on the part of the civil courts. In one respect, there was a change of the law proposed by that bill—and it was, that whereas the church was entitled to say, upon her own responsibility, that a presentee was not qualified, and that was enough for the civil court; but now the church was to be called upon (by Lord Aberdeen's

Mr. Dunlop's speech in reply to Sir George,—the effect of the bill.

The bill will not protect the Church from the invasion of the civil courts.

bill) to state and set forth the objections and reasons in respect of which the presentee was set aside. He would not say that this part of the bill was intended, but he would say that it was at least calculated to lay the church open to the most destructive interference from the civil courts. Why was it enacted that the reasons of rejection should be specified? Just in order to give the civil courts an opportunity to take them up, and consider whether they were the reasons which, under statute, the church was entitled to reject upon; and if the civil court found that, in determining the rejection, the church had gone one hair's breadth beyond the ground marked out by the act, then the civil power would come in and coerce by pains and penalties." After making it manifest, by clear and conclusive argument, that this bill would rob the church both of its non-intrusion principle and of its right of self-government, — Mr. Dunlop indignantly exclaimed, "What boon did that bill confer which merely declared the law as it was? They could do as they were, without any new law. They could rescind the veto, abandon the rights of the people, and resolve to withdraw themselves from the struggle for their christian rights and privileges. And what then did the bill do? It removed doubts. Yes, it removed doubts, and these of different kinds. They might have looked for a more favourable enactment,—*that* doubt was at an end. Many doubted as to the possibility of an effective revival of the call: many doubted whether, if they had stood upon the (positive) call, the Auchterarder case might not have been different from what it was,—and they had hoped to have yet got perhaps

One of its provisions, if not intended, directly calculated to let in the courts of law.

They could abandon their principles without the help of this bill; and this is what the bill would compel them to do.

CHAP. XI.

The kind of doubts which the bill removed.

a favourable decision on that point. All doubt on *that* head was now gone. The bill, too, would remove the doubt that had been thrown out by Lord Brougham —a doubt which had never been felt in the court of session. It made perpetual the adverse decision which might only have been temporary. It chained them down for ever in fetters of iron to the law as it was now declared."

The Rev. Dr. N. M'Leod's speech.

The Rev. Dr. M'Leod, of Glasgow, had a much better opinion of the bill than the preceding speaker. It was the great charm of the bill to the minister of the modern St. Columba's, that the bill was simply declaratory, and that it dealt so largely in the removal of doubts. "Let us dwell," said he, "on the fact that it is a declaratory bill. Its very title informs us, that its object is to remove certain doubts as to the objection of the people in the collation of ministers. Now, will any body say that there is no boon conferred by the settling of these doubts?" Dr. M'Leod failed to notice that the point of Mr. Dunlop's remark upon the "doubts," lay here,—that the assembly could have removed them quite as effectually without the help of an act of parliament at all,—that is, by simply giving up the whole matters in dispute! The Rev. Doctor found no fault with a door being left open for the court of session. Anything else, he thought, "would be in the highest degree objectionable, as it might be made a tyrannical measure. Suppose, for instance, if I, Norman M'Leod, was presented to the parish of Eigg, inhabited by the clan M'Donald, an island in which, among its other curiosities, is shown a cave in which are still to be found the dry bones of

Thinks the bill a great boon by settling doubts: misses the point of Mr. Dunlop's argument.

Puts a case: his being presented to the parish of Eigg.

the clan M'Donald, cruelly massacred long since by the M'Leods; and that an objection was raised against my presentation simply on the ground that I was a M'Leod, I would consider myself entitled to protection from a sentence on such causeless prejudice as this." But while he would not have shrunk to intrude himself on the M'Donalds of Eigg, despite of all such hereditary enmity, he was not by any means an out-and-out intrusionist. He could face the stern veto of the M'Donalds of Eigg—but not for a moment could he confront, with a similar hardihood, the young ladies of the modern Athens. "I shall suppose," said he, "another case which may, perhaps, come much nearer to the point. Suppose I had the offer of a church in Edinburgh. * * * Suppose the Edinburgh congregation had no objections to me, but that some professors and teachers of elocution might say, 'No; his highland accent is a great objection:' and suppose there were many well-bred young ladies among the congregation who had been sent to England to get a good accent, and who said,—We will not have him, for his accent is offensive: I say that this would be a legitimate objection, and in the face of it I would not take the living!" Unhappily for this intended display of chivalry and magnanimity, a friend of his own,—a certain remorseless Mr. Robertson of Ellon, who spoke on the same side of the debate,—assured him there was enough in Lord Aberdeen's bill to keep him out both of Edinburgh and Eigg. "His reverend friend, Dr. M'Leod," said Mr. Robertson, "had put certain extraordinary cases, at least extravagant ones: but in opposition to the judgment of his reverend

Holds that in such a case he would be entitled to get redress in the civil court.

Puts another case: his being presented to a charge in Edinburgh.

Mr. Robertson of Ellon spoils Dr. M'Leod's argument.

CHAP. XI.

Mr. Robertson's account of the bill not sufficient to induce the Assembly to receive it.

friend, he was not sure but both the cases put by him were comprehended under this bill." Notwithstanding, however, that the bill possessed these marvellous powers,—that there was a virtue in it sufficient to make the rotten bones of a dead M'Donald more than a match for the most eloquent of living M'Leods,—a virtue that would enable a jury of boarding-school misses to pronounce Ossian himself a barbarian, as unfit as his own wild bagpipe to discourse to ears polite,—notwithstanding of all this, and though Mr. Robertson was at much pains to celebrate these wondrous properties of the bill, he could not succeed in persuading the assembly to adopt it, as a new palladium for the church of Scotland. The friends of reformation principles "feared the Greeks, even when bringing gifts." The "Trojan horse," though the house was assured it was the pledge of lasting peace, was resolutely excluded. The "*utero sonitum*" was not sufficiently muffled. The clang of arms broke too loudly from its hidden recesses upon the ear. Its smooth and specious phraseology could not hide the sword and the shackles of the civil power,—the fines for the presbytery and the gags for the people—which the bill carried in its bosom. Even Dr. Simpson, of Kirknewton, would have none of it. "Come what may," said he, at the close of an able and argumentative speech, "the bill of Lord Aberdeen was one which, in its present form, the church could not accept. He would conclude by saying there might be danger in standing by the principles which they had avowed: but let the peril be what it might in standing to these principles,—the peril would be ten

The Trojan horse excluded from the city.

Dr. Simpson's speech.

times greater in receding from them. If the church of Scotland is to go down, let her go down maintaining, as she now maintains, her great fundamental principles, and she will go down amidst the universal respect of her people, and followed by their best affections. But let her recede from the principles she has avowed, and she will go down amidst the universal contempt of her people. Much has been said of the church of England, and on the want of intelligence on this subject, in the minds of Englishmen: but let them know this, that if the church of Scotland goes down, it is time the church of England were examining her own foundations. It was once remarked by the greatest and the best judge of the field of fight, and not of the field of bloody warfare merely, but of the field of debate—'The battle of religious establishments is about to be fought, and Scotland is the battle ground.'" The speech was both a good and a brave one, albeit the speaker himself came afterwards to be of opinion that "the better part of valour is discretion."

The Church must stand to her principles, and at all hazards refuse the bill.

The brave speaker proved to be of Falstaff's mind in the end.

The Rev. Mr. Begg, of Liberton, in a singularly effective speech, reminded the assembly of the consequences to which they must make up their mind in the event of their accepting this bill,—they must be prepared to intrude ministers against reclaiming congregations, and that, if need were, at the point of the bayonet. Not, of course, that even their moderate friends would do this wantonly and gratuitously. He read an extract from Dr. Cook's evidence before the patronage committee of the house of commons, "with reference to the parish of Shotts, in which he, Dr.

The Rev. Mr. Begg's speech.

CHAP. XL

Dr. Cook would not employ the military in the settlement of ministers *if he could help it.*

Cook, stated that he would not have recourse to the assistance of the military, *if he could help it.* Even Principal Robertson would have gone as far as that admission, for he probably was not an *amateur* of dragoons." But then the thing must be done if that bill was to be made law. It had been done before when there was no civil compulsion in the case, and it would become a matter not of simple choice, but of stern necessity, under the act of Lord Aberdeen. "The reverend gentleman then referred, in illustration, to the case of Jedburgh, in which all the parishioners, except five, were in arms against Mr. Douglas, the presentee, in consequence of whose settlement 2000 left the church in one day; to the case of Biggar, in which it was objected and admitted by the presbytery, that the voice of the presentee could not be heard in the church, notwithstanding which he was settled; and in the case of Kirkcudbright, in which the presentee was stone blind. In this last case, it was very amusing to see the extent of clerical ingenuity —for it had been specifically stated by the court who sustained the presentation of the blind man, that the objection to his want of sight would have been all very well in popish times, when there were so many *hocus pocus* ceremonies that it was impossible such a presentee could see how to perform them—but that now the objection was totally inapplicable and irrelevant where the gospel was administered in all its simplicity. He had brought forward these instances for the sake of those on the other side of the house, and in the expectation that they would be brought to look upon and contemplate them in the same way as the wander-

The forced settlements of last century.

The moderates should be taken to look at these old cases, as the M'Leods were taken to look at the bones of the murdered M'Donalds.

ers, referred to by the Rev. Dr. M'Leod, were brought to view the bones of the M'Donalds."

On the side of the bill, a speech was delivered by the Rev. John Hunter of the Tron church of Edinburgh, in which an argument was employed that sounded well: "We have all heard the objections of many an honest ploughman, and many an humble mechanic, to the discourses to which they have listened from the pulpit,—they were too learned or they were too flowery, they were dry moral harangues which touched not their consciences nor impressed their hearts, they were read from a paper, or they were delivered in a cold uninteresting manner. Homely, indeed, may be the language in which the objection is uttered, yet still there may be no difficulty in rendering it perfectly clear and intelligible to the minds of the members of a presbytery. And if it is stated and sustained by the presbytery, and not called in question by the supreme judicatory of the church, the presentee cannot be settled in the particular parish to which he is presented, and it appears to my mind utterly impossible that it can be taken by appeal or otherwise into any civil court upon earth, for all the conditions of this act are fully implemented. The objection is stated, it is put down in writing, it is cognosced and determined upon by the presbytery; but then, it is objected to this act that the presbytery have a power to disregard the wishes of the people and to proceed to the induction of the presentee, although a majority of the communicants should enter their dissent against his settlement. I am no friend to violent settlements, and happy, indeed, is it when the pastor and his flock

Speech of the Rev. John Hunter in favour of the bill.

Assumes that the objection to the bill consists in its *allowing* the Presbytery to disregard the dissent of the people.

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entertain a mutual esteem and affection for each other, even from the very commencement of their spiritual union. But the apostle Paul tells us a time will come when men will not hear sound doctrine, and a pastor may be rejected by the people just because he is zealous and faithful in his Master's cause; ready to refute error, to resist sin in every form, and exercise godly discipline. The rulers of the church are called to enquire into the religious character and moral habits of those who support or who oppose a presentee; and if they perceive that the aged, the experienced, the consistent christians of the parish are willing and anxious to obtain his spiritual aid—while the worldly, the formal, the careless, are all to be found in the ranks of opposition to him, it may be a sacred duty to the great Head of the church, even amid the loud accents of invective and abuse, to invest that individual with the office of the holy ministry, and to induct him into the charge to which he has been presented." As has been already observed, this sounds well. It seems all instinct with zeal for a pure gospel and an uncompromising discipline. But Mr. Hunter could hardly be ignorant of the fact, that this most sacred right of thrusting a minister into a parish over the necks of the people, was precisely the right, through the exercise of which, in the course of last century, the pulpits of Scotland were filled with worldly, careless, and lifeless, and to a large extent, heterodox ministers. It would have been something to the purpose if he could have laid his hand on one solitary case in which the riding committees had ever been put in motion, to introduce into a parish a godly

Supposes a case of an ungodly people rejecting a godly minister.

It would, in such a case, be the duty of the Presbytery to intrude him.

The intrusion system thrust in many useless ministers upon godly people,—not one instance of the reverse.

minister, in spite of the opposition of an ungodly people! In so far, indeed, as Lord Aberdeen's bill was concerned, the argument was altogether beside the mark. The complaint against the bill was not that it left to the presbytery "a power to disregard the wishes of the people." Had it simply left them the "power" to do so, it would, of course, have been their own fault if they abused it. The fault of the bill was not that it left them "a power" to intrude,—but that it did not leave them, in all circumstances, a power to refrain from intruding. It was not excess of power, but want of power—it was not the liberty which it gave, but the fetters which it imposed—that constituted the assembly's accusation against the bill. Even under the veto-law itself, if the prodigy which Mr. Hunter had laboriously conjured up to help him, should anywhere have been found to exist, the non-intrusion principle would have been found perfectly reconcilable with the discipline of the church. A congregation that "would not hear sound doctrine"—that proposed to reject a minister "just because he was zealous and faithful in his Master's cause,—ready to refute error, to resist sin in every form, and to exercise godly discipline,"—such a congregation would have been dealt with on their own account, instead of being invited to take part in the calling of a minister. Their roll of church members would have had to be looked to, and carefully expurgated before they were permitted to exercise the responsibility and the privilege of giving their voices in the settlement of a minister of Christ. So shallow an argument would not have deserved even the passing notice it has now received, were it

The objection to the bill misunderstood by Mr. Hunter.

Were the case put by him to occur, the congregation would be made the subjects of discipline.

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not that it has often been by the help of such statements,—plausible to those who are unacquainted with the subject,—that many well-meaning persons, especially in England, have been prejudiced against the non-intrusion cause. At the close of Mr. Hunter's speech the debate was adjourned till the following day, upon the motion of the Rev. Dr. Cook, who at the same time read the amendment he intended to move when the debate should be resumed. It proposed "to set aside" the veto-law and to "approve of the general tenor and spirit" of Lord Aberdeen's bill.

The debate adjourned.

Resumed on the evening of the following day.

At the evening session of the following day, the debate was re-opened by Sir James Forrest, the lord provost of Edinburgh. The bill was also opposed by the Rev. Dr. P. M'Farlan, of Greenock, who said: "In the speech with which Lord Aberdeen ushered in the recent bill in the house of lords, he concludes with words to the following effect—'I commend my bill to the people, and to the church of Scotland,—to the ministers especially of that church, who love peace, and who seek it with their whole heart.' If, sir, I know myself at all, I think I come under the description which his lordship has here given. I do love peace—I love it with my whole heart; and I grieve that our peace has been broken—interrupted and broken by the occurrences that have lately taken place. And there is no one thing short of the dereliction of the principles which I have all my life held, and which I consider to be essential to the interests of the church of Scotland, and of religion, that I would not willingly sacrifice to bring back again the blessings of peace." But much as he loved peace, he loved

The Rev. Dr. P. M'Farlan's speech, in answer to the appeal of Lord Aberdeen to the lovers of peace.

truth and a good conscience more. The bill would place the foot of the patron on the necks of the people —and the foot of the civil power on the neck of the church courts,—and Dr. M'Farlan could not consent to purchase peace on such degrading and dishonourable terms. From a man of so clear a head and so pure a mind—of such standing in the church and experience in affairs—and who was hazarding, moreover, in this conflict the largest living in the church—such a statement came with peculiar grace and force. His still more aged namesake, the principal of the university of Glasgow, was altogether of an opposite opinion. Holding, as he had always steadily and consistently done, by the policy of the Robertsonian school of moderatism, it was a fact of some significance that, in common with such staunch adherents of that "good old cause" as the Rev. Dr. Bryce, formerly of Calcutta, and the Rev. Mr. Bisset, of Bourtie, he was enamoured of the bill. It was the *juste milieu* between despotism and democracy—between the *vultus instantis tyranni*, and the *civium ardor prava jubentium*. The Principal forgot, at the moment of uttering these classic allusions, that the lord whose threatening brow had darkened so often upon the congregations of Scotland in the days of forced settlements, was not the patron but the presbytery; and that the great objection to the bill was just this, that it was fitted to turn the presbytery into a tyrant again. It is true the bill would, in one sense, have done even-handed justice, by making the presbyterial tyrant in his turn a slave, —a slave to the civil power. There would in this, however, have been little comfort for the people. Of

The answer came with peculiar grace and force from Dr. M'Farlan.

The extremest moderates all in love with the bill.

The classic allusions of Principal M'Farlan not quite appropriate.

CHAP. XI. all oppressors, a slave, "dressed in a little brief authority," is uniformly the worst.

Speech of the Rev. Dr. Patterson.

A speech of great felicity and freshness, which considerably relieved the *tedium* of this protracted debate, was that of the Rev. Dr. Patterson of Glasgow. He told, with inimitable humour, Sir Walter Scott's tale of the rough border baron who, having by some lucky chance made captive a formidable chief with whom he was at feud, brought in his daughter,—a frightfully ugly female, considerably out of date—and presented her to the unhappy prisoner,—offering him, at the same time, his choice between a wedding and the gallows! Lord Aberdeen's bill would bring about many courtships of a similar kind. Speaking in answer to some of those who laboured to show that the bill excluded the interference of the civil courts,

Compares Lord Aberdeen's bill to Loch Long.

"If you sail up Loch Long," said Dr. Patterson, "you find on either hand a firm and beautiful boundary of rock and wood; you would say there is no outlet either to the right or left; but just when the eye is resting on the continuous barrier, all at once a smoking steam-boat issues from the solid rock, meets you on your passage, and shows that there is another sea-way as open as the one that lies before you. I see as wide a road in that bill by which presbyteries will be brought up to the court of session. Sir, it is true the bill does say, that 'the appeal shall be exclusively to the ecclesiastical courts.' In what other way could the appeal go? I never could suppose an appeal from the presbytery or the synod to the court of session. It is not an appeal that I fear, but an application to the civil court, on the part of patron or presentee, on the

(alleged) ground of civil right." * * "The bill does not say, as the old act did, that the matter, when it has gone the round of the church courts, shall then 'take end.'" CHAP. XI.

Among the speakers in support of the bill, was the Rev. Dr. Barr, then of Port-Glasgow. It was late when this gentleman rose, and the scene which followed was somewhat amusing. He had been sitting on the side of the house occupied by the moderate party, but as he had hitherto been identified with their opponents in all his principles and proceedings, they took for granted that he was against the bill. Their impatience, aggravated by the lateness of the hour, was so universal and so vehement, that for some minutes the assembly had the benefit of nothing but the speaker's gesticulations. His lips were seen to move, and his body to bend to and fro, but everything else was lost amid the cries of "vote, vote, question, question," and the other customary voices with which an audience determined not to listen, is wont to salute an unwelcome orator. By and by, however, it became manifest that those who sat immediately around him were in the act of making some unexpected and agreeable discovery. Earnest attempts to catch his words, looks and entreaties deprecating any further interruption, were seen to proceed from well-known members of the moderate party who happened to be sitting near him. To their astonishment and delight the anti-patronage member was turning out to be in favour of the bill; and as the discovery spread, the cries of *vote* and *question* were suddenly exchanged for the "*hear, hear*" of cordial and eager applause. It was a case of con-

The Rev. Dr. Barr.

The impatience of the House.

The moderate party make a discovery, and become eager to listen.

CHAP. XI.

version, and was no doubt imagined to be symptomatic of other desertions from the non-intrusion cause: and hence the peculiar satisfaction with which it was hailed. All such expectations, however, were speedily and effectually crushed; for after a very short address from Dr. Cook, and a few sentences from Dr. Chalmers by way of closing the debate, the division came, and the bill was condemned by a majority of 221 to 134.

The division, —the bill rejected by 221 to 134.

It seemed, for a time, as if Lord Aberdeen were determined to disregard this strong expression of the mind of the assembly, and to force his obnoxious measure upon the church notwithstanding. On the 16th of June, his lordship moved the second reading of the bill, in the house of lords, and carried it, against the amendment of the Marquis of Breadalbane, that "the bill be read that day six months," by 74 to 27. It was in the course of the discussion which took place on that occasion, that Lord Aberdeen allowed himself to use language in reference to the assembly's non-intrusion committee, to which it is painful even at this distance of time to refer. After so describing what the committee had said in their report to the assembly regarding a statement alleged to have been made to a deputation of their number, by Lord Melbourne, as to elicit from his lordship something like a caveat against it, or a conditional and qualified contradiction of it,—Lord Aberdeen hastened to throw out a most offensive charge against the committee's honour and good faith, and tried, with more dexterity than fair-dealing, to make Lord Melbourne a partner in this outrage. "He would fairly tell the noble viscount,

Second reading of the bill in the House of Lords carried on 16th June.

Attack made by Lord Aberdeen on the non-intrusion committee.

that he did not believe the statement contained in the report. In the report of the communications which the committee had had with him, they had been so unscrupulous in their statements, that it was probable they had not dealt more honestly with the noble viscount." His lordship would hardly have ventured to make that statement on the floor of the general assembly. Lord Melbourne, on the instant, disclaimed all participation in so odious a charge. The entire correspondence which had passed between Lord Aberdeen on the one side, and Dr. Chalmers and the non-intrusion committee on the other, relative to the church question,—was given almost immediately thereafter, to the public. And few, perhaps, of those who have read it with any ordinary measure of candour and attention, will hesitate to allow that it is stating the case very guardedly and moderately, to affirm that the harsh and injurious expressions in which his lordship indulged against the committee, might with *at least* an equal show of reason and justice be employed against himself. But enough has been already said in an earlier part of this chapter upon the subject.* The interests of truth are not advanced by perpetuating those angry feelings and bitter prejudices which Lord Aberdeen's attack upon the committee betrayed, and which it was too well calculated to excite in others.

Lord Melbourne refuses to join in the accusation.

Not desirable to dwell on such scenes.

Finding that the bill was still persisted in, a petition

* Those who desire to examine it more minutely will find all the materials in the "Earl of Aberdeen's Correspondence with the Rev. Dr. Chalmers, &c., from 14th January to 27th May, 1840: Blackwood, Edinburgh, 1840;" and in "A Letter to the Earl of Aberdeen on the Correspondence, &c., by Alexander Dunlop: Edinburgh, Johnston, 1840."

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An elaborate petition prepared against the bill by the non-intrusion committee's deputation.

against it was prepared by a deputation which had meanwhile been sent to London from the non-intrusion committee. This was a very elaborate and able document, in which a clear and succinct account was given of the act of Queen Anne restoring patronage,—of the indecent haste with which it had been passed through parliament, — of the church's urgent and repeated protestations against it, as a violation of rights and privileges which had been guaranteed by the revolution settlement and the treaty of union,—of the sense in which the act had been always understood, as neither taking away the people's right of call, nor authorizing the civil courts to interfere with the spiritual matters of ordination and induction—and of the widely different construction put upon the act by the recent Auchterarder decision, with all its painful consequences. Speaking of that decision and others which had followed upon it, the petition bore —

Remarks of the petition on the late proceedings of the civil courts.

"That those proceedings of the civil courts have had the effect of placing the church in a new and most embarrassing position. Not only is it thereby fixed, that when the church acts in any case according to her fundamental principles in the trial and ordination of ministers, the civil courts may refuse to acknowledge her judgments, as regulating the disposal of the fruits of the benefice: the only question which the church submitted to legal determination, and in regard to which she has bowed to that determination,—but a far more serious evil is found to impend over the church. She is exposed to the hazard of receiving, and has actually received, orders and injunctions from the civil courts, to which neither her conscientious convictions

of duty, nor her constitutional standing in the country, permit her to yield obedience." Advancing to the subject of Lord Aberdeen's bill, the proposed remedy for the existing evils, the petition stated—"That the bill now before your lordships' house does not profess to alter or modify the law as thus interpreted by the civil courts: that while it is intended to remove doubts, it does not satisfactorily declare to what extent the jurisdiction of the church in the matter of the settlement of ministers is to be recognized as exclusive, and that in particular, so far from allowing to the church courts a full and absolute discretion in disposing of all questions regarding the trial and ordination of ministers, it expressly precludes them from giving that consideration which the church holds they are bound to give to the dissent or non-concurrence of the communicants. For the church,—viewing the consent of parties, expressed or implied, as an element essential to the right performance of that solemn act of ordination, by which she ratifies and sanctions a relation founded on the mutual agreement of the pastor and people to undertake towards one another its weighty duties and responsibilities,—cannot in any circumstances relinquish her power to refuse ordination, when that element seems to her to be wanting: and therefore she cannot now submit, as she never could have submitted, to any law which would limit her jurisdiction in that particular, or which might impose upon her, in any instance, an obligation to settle a presentee contrary to the will of the people." And hence the petition argued—"That this bill, if passed into a law, giving the sanction of the legislature

Remarks on Lord Aberdeen's bill.

The consent of the congregation an essential element in the settlement of a minister.

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to the interpretation now, for the first time, put on the law of patronage by the civil courts, would fully realize the worst fears entertained by the church, when that law was originally passed: that it would fatally abridge or destroy the liberties which were understood to be left to the church, even under that law, and which rendered it compatible with her sense of duty to conform to it: that it would not only interfere with the liberties of the christian people, and their responsible position as members of the church, but would grievously offend the consciences of ministers, and would impose upon them a rule on which they could not act: and that, in short, it would involve an enforcing of the rights of patronage in opposition to the constitution of the church, to an extent and in a way never hitherto attempted since the era of the revolution."

The bill would take away the liberties of congregations, and offend the consciences of ministers.

On these and other grounds specified, the petitioners claimed to be heard by counsel against the bill at the bar of the house, "as their predecessors, in like circumstances, were heard, upwards of a century ago, in behalf of the just and constitutional liberties of the church and people of Scotland."

Petitioners claim to be heard by counsel against the bill.

This important petition was presented, and ably supported, by the Marquis of Breadalbane—a nobleman whose whole conduct throughout the great controversy in which the church had become involved, has been such as to command the respect and esteem even of her bitterest opponents,—while it has secured for him a lasting place in the love and admiration of her friends. An enlightened and conscientious presbyterian, he took up from the beginning that ground which, with a firmness that never swerved, and a con-

Petition presented by the Marquis of Breadalbane,—his great services to the Church.

sistency that never varied, he maintained to the close. In the house of lords, and with the bench of lawn-sleeved prelates before him, he was not afraid to proclaim it, that, "unlike the church of England, *his* church acknowledged not the crown as its head,—but looked only to Christ and the bible for its authority and belief." And that, "to these views he, as a presbyterian, most implicitly and cordially assented." And while the clergy of the church of Scotland were held up by the great majority of his peers, as turbulent and disloyal men, who were wantonly setting themselves in opposition to the law of the land, he was not ashamed of this cross which their Master had called them to bear. "He felt that the pastors of the present presbyterian church could take no other course than that of deferring conscientiously to the principles of their faith, which taught them to believe that the civil power had no right of interference with the induction of its ministers."* When Lord Breadalbane presented the petition praying that the church might be heard by counsel against the obnoxious bill, nothing was said by Lord Aberdeen to indicate whether or not he intended to withdraw it. At length, however, on the 10th of July, he took the opportunity in answering a question which had been put to him some time before by the Duke of Richmond, to state to the house that "he had come to the conclusion, although very reluctantly, that it would not be expedient for him to press the third reading of the bill during the present session." This was, of course,

His lordship points out the characteristic distinction between the Churches of England and Scotland, as regards their relation to the civil power.

The bill at length withdrawn on 10th July.

* Speech on the occasion of second reading of Lord Aberdeen's bill. —Scottish Guardian, 19th June, 1840.

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tantamount to the abandonment of the bill. It was not, however, out of any deference to the opposition of the church his lordship had adopted this resolution; but rather to the opposition of the government. His lordship's busy correspondents in the north still assured him that the opposition of the church might be overcome,—that the clergy, and even the community, were, in fact, in favour of the bill. "It was only this morning that he had received a letter," his lordship said, "from a minister in the west of Scotland, who had heard a report of his (Lord A.'s) intention to withdraw the bill, and who said—'If this be so, I can only assure your lordship, that you will disappoint nine-tenths of the people in this district; and, I believe, in the whole of Scotland.'" It was a remark of Julius Cæsar, that men "easily believe what they wish." The ten years' conflict was destined to furnish, as it proceeded, other examples of credulity still more remarkable. In the course of that single session, petitions had been laid on the tables of parliament signed by 265,000 persons, in support of the great principles for which the church was contending,—petitions expressly designed to support the efforts and the objects of the non-intrusion committee of the general assembly. The total number of petitioners, on the other side, amounted to no more than 4000. There is no ingenuity that can explain away facts like these. And while such facts are amply sufficient to condemn the conduct of Lord Aberdeen, in attempting to legislate in the teeth of so unequivocal an expression of the mind of his countrymen, and that too in reference to a subject as to which history might surely have

In withdrawing his bill, Lord Aberdeen reads a letter from a minister in the west of Scotland, who says nine-tenths of the people in his district will be disappointed if the bill do not pass.

Facts which contradict that statement.

taught him that they had at least a full share of his own characteristic tenacity of purpose and strength of will,—the same facts not less unequivocally condemn the inaction of her majesty's ministers. The "*dolce far niente*" of Lord Melbourne, was to the full as indefensible as the ill-advised activity of his political opponent. Independent of the obligation which lay upon the government of the country to make the attempt at least to rescue a great national institution from the ruin which was so evidently impending over it, it might well have been thought that a liberal and reforming government would have shown greater deference to the national will, and greater sympathy with a movement for the vindication of popular privileges, than were evinced by the apathy and unconcern with which they treated the whole affair. Those, indeed, who looked beneath the surface of things were not surprised. Mere political liberalism is no whit more tolerant than toryism itself of a really independent evangelical church. An institution that will not bow to the minister of the day,—that claims to walk by a divine rule and to have a Master in heaven,—is, in the estimation of secular politicians, an inconvenience at the best. So long, indeed, as the principle of non-intrusion was the only question in dispute, it seemed reasonable to think that some adjustment would be found for it. It was, at any rate, a hard thing to believe that in the nineteenth century the church of Scotland would be disestablished, because she had determined never again to be guilty of intruding unacceptable ministers. As the course of events proceeded, however, and the controversy began to

The inaction of the government upon this question most criminal.

An evangelical Church, that will not do the bidding of politicians, no favourite with either Liberals or Tories.

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The form the question was now taking, of a conflict for independent spiritual jurisdiction, diminished the hope of a settlement.

take a wider range,—including within it not merely the subordinate question connected with the rights of patronage, but the fundamental question of the spiritual rights of the church,—it became every day more and more manifest to thoughtful men that a satisfactory and peaceful settlement was hardly to be looked for in the present state of the political world. That exclusive and independent jurisdiction in matters spiritual which it cost the church of Scotland the struggles and sufferings of a century to wring from the tenacious grasp of the civil power,—if once her legal right to it came to be deliberately challenged,—was not likely to be conceded anew without putting the church again to the test of some sharp and searching trial. The whole subject was new and strange to the mass of British senators and statesmen. Accustomed to contemplate the relation of church and state through the medium of the English establishment, where the supremacy in all matters and causes ecclesiastical is vested in the crown, and where the queen in council, or the parliament, regulates almost everything, and the church herself regulates nothing, —it was easy to foresee how little prepared or predisposed they were likely to be to appreciate or acknowledge claims to which they had nothing similar among themselves. If, indeed, they could have been induced calmly and dispassionately to study the striking peculiarities which distinguished the Scottish from the English church establishment, in what belonged to their relations respectively with the temporal power, it would not have been too much to expect that what is written so broadly on the face of history, as well as

English parliament knows nothing of a spiritually independent Church.

of statute law, should have secured for the case of the church of Scotland at least a patient and respectful hearing. Nor is it unworthy of notice that one illustrious individual seems by this very process to have arrived at views of the question such as, if followed out, might have procured for the church a happy issue out of all her troubles. That individual was the Duke of Wellington. In one of his letters to Dr. Chalmers in the spring of 1840, Lord Aberdeen mentions the fact that he "had sent the duke a copy of Mr. Hamilton's pamphlet," which he requested his grace to read "in order to remove some erroneous impressions." The pamphlet in question was one, well known and greatly valued in the controversy, entitled, "The Present Position of the Church of Scotland explained and vindicated." Combining the professional learning and accuracy of the lawyer with the calmness of a philosopher and the earnestness of a truly christian mind, its estimable and accomplished author had placed the whole question in a light admirably fitted to convey to Englishmen a just view of its real character and merits. The Earl of Aberdeen did the question no ordinary service when he placed this exposition of it in the hands of the Duke of Wellington. Having read the pamphlet, that "clear-sighted, wise, and upright statesman," as Lord Aberdeen so justly designated him, addressed a communication to his lordship, in which the following remarkable statements occurred:—

The Duke of Wellington's views on the course that should be adopted.

Guided to these views by reading Mr. Hamilton's pamphlet.

"If these were the times in which moderate counsel would be attended to, I should say that it would not be difficult to settle this question. But what I would

The Duke's letter to Lord Aberdeen.

CHAP. XI. recommend to the kirk to consider is, that their utility as an establishment depends in a great measure upon their intimate connection with the state. They cannot be an establishment without such a union—every care being taken to preserve their exclusive spiritual power and to secure it to them.

"But in the exercise of this exclusive power, particularly of those branches thereof which have relation with the municipal power of the state, it is very desirable, and not inconsistent with former practice, that the kirk should state clearly the rule which it is proposed to adopt, that that rule should be made the subject of an act of parliament, and should regulate all such questions in future. I am aware that it may not be easy to frame a rule which shall be applicable to all cases. The difficulty may exist, but it would not be insurmountable in better times than these; in which good men with good intentions might have some weight and influence."*

The Church should state the rule she wished to proceed upon,—and Parliament should give it the sanction of law.

It is plain from these few sentences that the duke, with that almost intuitive sagacity for which he is so remarkable, had mastered the true theory of the church and state system of Scotland. His proposal is the very *ideal* of the way in which, according to that system, legislation, in regard to matters ecclesiastical, ought to proceed. Let the church set forth the rule which it wishes to enforce,—and let the parliament, when satisfied of its soundness, append to it that ratification, by virtue of which, as to all civil effects, it shall have the force of statute law. The singular and

This the very *ideal* of the way in which the State should legislate in Church affairs

* Earl of Aberdeen's Correspondence, &c., p. 26.

unhappy circumstance, however, connected with the incident, is this,—that Lord Aberdeen himself took a course the very opposite of that which the duke recommended. Disregarding the "rule" proposed by the church, his lordship framed, without consulting the church at all, a rule of his own; and then endeavoured to force it down the church's throat. No wonder that the effect was to widen instead of closing the breach,—and that the whole attempt ended in producing, among both parties, increased irritation and disgust.

Lord Aberdeen took a course precisely the opposite of that which the Duke recommended.

But to return to the general assembly. The other great question of that assembly, in so far as the controversy was concerned, was that of the Strathbogie ministers. This grave case was taken up on Tuesday the 26th of May. The first step taken in behalf of these ecclesiastical mutineers was a motion made by the Rev. Dr. Anderson of Newburgh, that the members of commission, by whom the sentence of suspension had been pronounced, should be sisted at the bar as parties in the cause. This extravagance was, however, after a brief discussion abandoned,—and the cause being put in shape for a hearing, Mr. Patrick (now lord) Robertson, appeared as counsel for the accused. These gentlemen had been suspended from the exercise of the functions of their office by a sentence of the commission of the preceding assembly. Complaints had been taken against that sentence, and to these complaints Mr. Robertson now addressed himself. The learned counsel took high ground. Not only did he deny the competency of the commission to pronounce the sentence of which his clients com-

Narrative returns to the Assembly: the Strathbogie ministers.

Speech of their counsel, Mr. Patrick Robertson.

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plained, but he denied the competency of the assembly itself—nay more, the competency of "any court in her majesty's dominions to pronounce it." His clients had done nothing but obey the law of the land,—and not they, therefore, but the court that condemned them, were the real offenders! Mr. Robertson had a very short and simple argument. Apologizing for being "a little elementary," he remarked, with characteristic gravity, that "the supreme power in a state rests somewhere. That proposition, I presume, will not be disputed. Where then does it rest? It necessarily rests on the authority of the sovereign, the lords, and the commons, speaking through their statutes. And how do they speak through their statutes? If the statute be plain it will speak for itself,—if the statute be not plain, the courts of law will interpret the statute." *Quod erat demonstrandum* —the learned counsel should have added,—for no mathematical demonstration was ever more conclusive or complete. There was, to be sure, a little *petitio principii*, as logicians call it,—or what amounts, in simpler phrase, to a begging of the question, in his mode of putting the case. He took for granted what was precisely the thing to be proved—that the "courts of law" had any authority from "the sovereign, the lords, and the commons," to "interpret the statutes" for the church, where matters ecclesiastical were concerned. Aware that this rather obvious defect in his reasoning might suggest itself to the assembly, Mr. Robertson, assuming all at once that look and tone which sat so naturally on this mirth-moving lawyer, exclaimed, "Oh! but the general assembly,—Oh!

Mr. Robertson's argument short and simple.

His argument begs the question.

Anticipates the objection to his argument.

but the superior ecclesiastical power—they have exclusive and supreme jurisdiction in matters ecclesiastical!" And then, passing from gay to grave,—looking quite serious now, after having laughed the exclusive spiritual-jurisdictionists altogether out of countenance, he went on to say—"Granted—but what are matters ecclesiastical? Is not the question—Whether, under your ecclesiastical jurisdiction, you have or have not, exceeded your power—a civil question?" And so the *Quod erat demonstrandum* was triumphantly reached again. The last word—the "redding stroke" in the fray—was proved to belong to the court of session, and that was enough. But how proved? By a naked and bold assertion, and by nothing else besides. Is it, indeed, exclusively a civil question this—the determining what is civil and what is ecclesiastical? It is not easy to see what should make it so, and Mr. Robertson did not even attempt to explain. When a church court, with the bible and the confession of faith before it, comes to the conclusion, that baptism, or the Lord's supper, or the ordination of a minister, or the setting of a pastor over a portion of the flock of Christ, is a matter ecclesiastical, and not a matter civil,—is the church court, in so doing, stepping into the province of the courts of law? Is the church court forbidden to know a thing ecclesiastical from a thing civil till the court of session instructs it? This, at least, is not self-evident; common sense repudiates it as an absurdity. If the case be as Mr. Robertson affirms that it is, it certainly does not grow out of the nature of things. If, therefore, it be true at all, it must be the result of some positive statutory arrange-

Answers it by raising a laugh.

Makes out his point by a mere assertion.

The Church as much entitled to say what is ecclesiastical, as the Court of Session to say what is civil.

CHAP. XI. ment, by virtue of which, as one of the essential conditions on which it has established the church, the state has expressly stipulated and required that all "*boundary questions*" shall be exclusively at the disposal of the courts of law? But where is the statute which embodies that provision? Where is the act of parliament that vests this super-eminent jurisdiction in the court of session? Lord Jeffrey called for it again and again in the Auchterarder case, but in vain. It is a mere assumption, which has not a particle of evidence to rest upon, and which is contradicted by the whole theory and practice of the judiciary system of Scotland. "If you have the supreme power to declare everything ecclesiastical that you think proper," said Mr. Robertson, supporting his grand proposition with an argument altogether worthy of it, "then you supersede the supreme civil power,—you may declare it ecclesiastical to have an increase of your stipends, you may declare it ecclesiastical that no man shall pay his debts if he is a minister, and that all such matters are ecclesiastical." Be it so, it would be after all a very harmless pastime; the stipends would not be increased, and if the debts were not paid, the mad ministers who thought, by the mighty magic of their declaration, to transmute the matter civil into the matter ecclesiastical, would have to go to jail. The folly would cure itself, and this is the simple and obvious answer to all such ridiculous suppositions. If the church court, in determining what belongs to its own jurisdiction, either ignorantly or intentionally trespasses on the civil province, the civil court will, of course, take care to protect its own

The Court of Session has not by law any right to be the sole judge in questions of competing jurisdiction.

An extravagant case put by the counsel.

If such a case did occur, the folly would cure itself.

interests by disallowing to the ecclesiastical sentence any civil effect; but what if the court of session either ignorantly or intentionally invades the province of the church! "If," it might be said, adopting the converse of Mr. Robertson's supposition, "if you, the courts of law, have the supreme power to declare everything *civil* that you think proper, then you supersede the supreme ecclesiastical power,—you may declare it civil to regulate public worship, you may declare it civil that no man shall be amenable to a kirk session in the matter of church discipline, especially if he be a member of the college of justice,—and that all such matters are civil!" Perhaps the learned counsel would not have shrunk from this application of his argument. M'Crie, speaking of the attempts that were made by the civil authorities at Geneva to overbear the exercise of church discipline, by Calvin, observes, that "the dispute between him and his opponents turned on this question: are ministers obliged to administer the sacraments to those whom they judge unworthy? or, which amounts to the same thing, are the decisions of the church court in such matters to be reviewed and reversed by the civil court?" "And this," adds the historian, "will be found to have been the true state of the question in Scotland, in the greater part of the discussions between the court and the church after the establishment and the reformation."* It was the true "state of the question" in the ten years' conflict.

The *per contra* of Mr. Robertson's famous supposition.

The matter in dispute illustrated by the case of Calvin, as noticed by M'Crie.

Mr. Robertson amused himself and the assembly

* Life of Knox, Vol. II., p. 3, foot-note.

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Objections in point of form taken by the counsel.

with his objections to the sentence of the commission, on points of form. They were so numerous, "he did not know where to begin." "As a lawyer," said he, "if I could have framed a sentence so remote from that which should have been pronounced in point of form, I would say,—'Having duly considered the matter, which is not before me; having pondered over a petition which I ordered to be served, but which is not served; having superseded consideration and referred the whole matter to another tribunal, and having also well and ripely advised the whole matter,—in respect that there is no accuser and no libel, in respect that I have only a delegated power, and in respect that that delegated power is not conferred on me, and in respect that the body which called me into existence had no power to delegate that power,—therefore in respect of these and other considerations, I suspend the seven ministers.'" The assembly laughed heartily at this ludicrous travestie of the facts of the case, and if the place of law and logic could have been supplied by a jest, the witty counsellor would undoubtedly have triumphed.

Ludicrous travestie of the libel.

Dr. Cook opens the discussion: maintains that the Commission had exceeded its powers.

Dr. Cook, who opened the discussion in the house, went at once to the point. "I am perfectly prepared," he said, "to admit that the mode in which this question must be taken up here is simply, whether the sentence of the commission, which I am to oppose, was *ultra vires* of the commission of assembly." The argument of the reverend doctor, to prove that the commission had exceeded its powers in suspending the seven ministers, was this: The commission is a body created by the general assembly, and not known to

acts of parliament,—and therefore it "has no civil jurisdiction." But the commission had assumed civil jurisdiction, because "they proceeded to suspend those seven men, not from their ecclesiastical functions merely, but from their judicial functions also." "I doubt the power," he said, "to suspend from the ecclesiastical functions, but I am decidedly of opinion that the commission had no power to suspend those clergymen from their judicial functions, from those duties imposed on them by statute." In addition to these alleged *radical* defects which attached to the commission, and which, in his view, disabled it in any circumstances from pronouncing such a sentence as the one complained of,—Dr. Cook further stated two other and more special grounds upon which he held the sentence to be incompetent. *First*, that be the commission's power what it may, it reaches only, in judicial cases, to those matters which the assembly has remitted to it. He affirmed that the commission had gone beyond the remit of the assembly, and had dealt with "a state of things not only not referred to the commission, but not contemplated by those who made the reference." And *second*, that the commission had no authority to take up any case referred to it except at the "stated meetings" of commission; whereas the sentence had been pronounced, not at a stated, but at a special meeting. This was the argument on the strength of which Dr. Cook called on the assembly to find that, in pronouncing the sentence of suspension against the seven Strathbogie ministers, "the commission have acted *ultra vires* in exceeding the powers granted by the assembly,—reverse and

His novel distinction between the ecclesiastical and judicial functions of ministers.

Objects that the Commission had gone beyond the remit of the Assembly, and that the Commission could not deal, even with cases remitted to it, except at its stated meetings.

CHAP. XI. rescind the said sentence, and the whole proceedings connected therewith, declaring them to be null and void."

Dr. Cook's attack on the legal standing of the Commission.

The fact that Dr. Cook attempted to carry his point at the expense of destroying the legal standing of the commission, serves only to show to what extremes partizan strife will carry men. The commission had existed and had exercised the very powers, now for the first time called in question, for upwards of a century. The very year before, the assembly had *unanimously* approved a sentence of the commission, not suspending merely but deposing a minister. There was not a word then of Dr. Cook's newly discovered distinction between the ecclesiastical and judicial functions of a minister; as if ministers got their authority to preach and dispense the sacraments from the church,—but their authority to judge, that is, to rule the house of God, from "statute law!" He was well reminded that his distinguished predecessor in the leadership of the moderate party, Principal Robertson, knew nothing of this modern scruple about the powers of the commission. Mr. Begg, who recalled Dr. Cook's attention to this fact, quoted Principal Robertson's well known "reasons of dissent" against the commission of assembly of 1762, in the Inverkeithing case. There had been disobedience in that case too, by a presbytery to the orders of their ecclesiastical superiors,—and the Principal complained of the commission for not punishing that disobedience. "There never," said Mr. Begg, "was a more complete contrast between two cases. It was a commission on both occasions that decided; but on the one

Rev. Mr. Begg refers Dr. Cook to Principal Robertson for precedents to prove the authority of the Commission in cases like the present.

occasion the commission had decided in favour of the people; and on the other a dissent was taken from their judgment, because they did not inflict censure on ecclesiastical persons for the purpose of compelling them to settle unacceptable presentees. The essence of the whole lay there. A new idea has been discovered by the moderate party in regard to the power of the commission: and that grand discovery had probably been made, because unfortunately the commission *now* had shielded the people against a violent intrusion."

The moderate party seem to object to the power of the Commission, because it was now *shielding*, instead of *oppressing*, the people.

With regard to the more relevant objection, that the commission had gone beyond the remit of the assembly, it would have been decisive had it only been true. But the commission had not gone beyond the remit of the assembly. Dr. Anderson of Newburgh, who made by much the ablest speech against the sentence of the commission, admitted that "he had not the fragment remaining within him of a doubt that the assembly delegated to the commission the whole case of Marnoch, to be cognosced, determined upon, and disposed of, not merely according to the remit, but in terms of the veto-act;" in short, "to do every or any one thing in the matter they may choose. He had no doubt that all these things were intended." It is true, Dr. Anderson held, notwithstanding, that the assembly did not and could not know, at the time the remit was made, that things were to turn out as they had done. They did not know the Strathbogie ministers were to refuse obedience to the orders of the church; and, therefore, he argued, the remit could not have contemplated a sen-

Dr. Anderson of Newburgh, allows that the Commission had not gone beyond the remit.

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tence like that which had been actually pronounced.

Dr. P. M'Farlan's answer to Dr. Anderson.

"I do not wonder," said Dr. P. M'Farlan, speaking to this point, "that it entered not into the mind of the assembly; for who was to suppose that any seven ministers in the church would refuse to do what the assembly, in the exercise of its lawful authority, commanded them? And not only that, but that they would actually go before the court of session, and prefer obedience to the civil court to obedience to their own ecclesiastical court." But what then? The commission had received instructions and authority to do everything that might be necessary to prevent the intrusion of Mr. Edwards into the parish of Marnoch—and the suspension of the seven ministers turned out to be the only means of hindering that wrong. As for the last objection of Dr. Cook,—that the commission had no authority to convene or act except at the usual stated times of meeting,—it was enough to point, in reply to it, as Dr. M'Farlan did, to the very terms of the commission's annual appointment; in which, while stated times are specified, it is farther added, that they shall meet "oftener, when and where they shall think fit and convenient."*

His answer to Dr. Cook's objection, that the Commission had no power except at stated meetings.

After a lengthened discussion, the amendment of the procurator was carried against the motion of Dr. Cook by a majority of 84: the numbers being 227 to 143. The amendment was in these words—"That the assembly, having heard counsel in this case, find that the commission did not exceed its powers; dismiss the complaint and appeal, and find and declare

The decision.

* Vide Presb. Rev., Vol. XIII., p. 137.

that the seven ministers in the presbytery of Strathbogie have been duly suspended, in terms of the sentence of the commission."

Effect of this preliminary decision.

This decision did, of course, nothing more than vindicate the past. It left the whole question open as to what was to be done with these seven ministers for the future. Their junior counsel not being prepared, in the absence of his senior, who had meanwhile left the bar of the house, to enter on the ulterior question that remained, craved delay. This was granted at once, and on the motion of Mr. Dunlop, the case was deferred till the Thursday morning thereafter. "He seriously felt the responsibility of the steps which would follow, and he trusted these gentlemen would also feel more deeply the position in which they were placed." On the day fixed, the seven ministers re-appeared at the bar of the assembly, and Mr. Robertson, as their senior counsel, once more addressed the house. On this occasion, however, he contented himself with the briefest possible statement,—requesting only that his former argument might be held as repeated. In the house, Mr. Dunlop took the lead in the discussion of this momentous case. He began by recapitulating briefly, but clearly, the proceedings which had brought down upon the seven ministers the sentence of the commission. To these it is not necessary to return. Speaking as to what occurred subsequently to the commission's sentence, Mr. Dunlop went on to state, that—"these parties, suspended by the commission from the exercise of their functions, resolved, nevertheless, to proceed in the exercise of their judicial functions, to sit as a presbytery, and go

Case heard on the merits.

Mr. Dunlop leads the discussion.

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The statement made by the seven ministers to the Assembly different from that which they made to the Commission.

on with the trials of Mr. Edwards. They state now that they never intended to admit Mr. Edwards as minister of Marnoch, but only meant to take him on trials. They did not tell the commission so. Their own resolution was, that they would proceed to the settlement of Mr. Edwards. Nor could one see how they could divide the sentence of the civil court—how, if they considered themselves bound by their duty and allegiance to the civil court, which they held to be so imperative on their consciences, to take Mr. Edwards on trials—they could consider themselves entitled to refrain on finding him duly qualified, from receiving and admitting him; for if there was any difference between the two parts of the sentence, it was that there was greater sanction and authority for the latter; inasmuch as the statute did not say a word about taking on trials, but used the very words of the deliverance of the civil court, that they were bound and astricted to receive and admit. But the meeting of commission on the 4th of March, had not only this matter under their consideration, but were informed

The fact was before the Commission, that the seven ministers had broken through the sentence of suspension.

that it was generally reported and understood that the suspended ministers, notwithstanding their suspension from all their ministerial functions, continued to act in a spiritual capacity,—and as a subsisting church judicatory, that they were baptizing and administering ordinances, and preaching in their churches, as if they had never been suspended, on the faith and by virtue of authority proceeding from a secular court of this land, as their only warrant. But they took a far greater step than this. They, ministers of a church, which disowns all authority in spiritual matters of any

secular power whatever,—professing to maintain that independence in purely spiritual matters recognized most unequivocally in the confession of faith and the statutes of the realm—having been suspended by the commission's sentence which, if improperly passed, might be remedied by an appeal to the general assembly, went to the civil court and acknowledged its jurisdiction of inflicting ecclesiastical censures in a most purely spiritual matter."

They had gone to the civil court and acknowledged its jurisdiction in a matter purely spiritual.

"No person who had entered the arena of argument in this controversy," Mr. Dunlop continued, "denied that, in regard to spiritual censures, the church was altogether and absolutely independent, that its authority flowed from the Great Head of the church, and that the civil courts were not entitled to interfere. The terms of the confession of faith were clear beyond the possibility of quibbling or dispute, and not one of the opponents of the church had ever ventured to assert that the court of session, or any civil court on earth, had a vestige of jurisdiction in the matter. Yet these seven ministers of the church, sworn to obey her judicatories, had applied to a civil court,—not to protect them in their civil rights, not to protect them in the possession of their parish churches, which, coming under civil cognizance, were legitimate subjects of civil interference, and which it was not attempted to take from them. That was a matter competent to the civil courts, a matter in which the church was bound to give, as she did, implicit obedience to their decision. But what did those ministers call on the court to do? In the prayer (which Mr. Dunlop here read) of their note, they prayed the court

The Court of Session could deal with their civil rights, but not with their ministerial functions and office.

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Mr. Dunlop reads the prayer of their petition to the Court of Session, and comments on it.

of session to prohibit the parties authorized by the commission's sentence absolutely from preaching the gospel of Christ,—not only calling in the arm of the civil power to repone themselves in the exercise of their ministerial functions, but calling on the court of session to interrupt the church in her right to have the gospel of Christ freely and purely preached to her own people, and to put the inhabitants of these parishes in a situation in which no individual could, consistently with the principles of liberty and toleration, be placed, so that they could not obtain, without a breach of interdict, the preaching of the gospel and the administration of ordinances by any minister of the communion to which they belonged, and which, above all, was the communion of the established church. Such were the several actings of the ministers at the bar, which were now brought under consideration, and the house was now to determine what course should be followed in regard to them." Mr. Dunlop went minutely into the history of the Inverkeithing case, which had been briefly alluded to by Mr. Begg, in the preliminary discussion two days before. Those who were disposed to countenance the insubordination of the presbytery of Strathbogie were reminded by Mr. Dunlop of the address delivered to the general assembly of 1752, by the king's commissioner. "One thing, however," said his grace on that occasion, "as a well-wisher to the government and good order of this church, I cannot pass over in silence. Allow me, therefore, to hope, that as it is our happiness to have regular meetings of our national assembly countenanced by our gracious sovereign, you will be

The Inverkeithing case, and speech of the King's Commissioner in 1752.

careful to support its dignity and authority, and not to destroy, with your own hands, our most valuable constitution, secured by law, so dear to our forefathers, so excellent in itself, and which your enemies have so often attempted to wrest from you. The main intention of your meeting is frustrated, if your judgments and decisions are not held to be final, *if inferior courts continue to assume the liberty they have taken upon themselves, in too many instances, of disputing and disobeying the decisions of their superiors.* It is more than high time to think of putting a stop to this growing evil, otherwise, such anarchy and confusion will be introduced into the church, as will inevitably not only break it in pieces amongst ourselves, but make us likewise the scorn and derision of our enemies,—for, believe me, subordination is the link of society, without which there can be no order or government."

The King's Commissioner, in 1752, warned the Church not to allow inferior Church courts to disobey their ecclesiastical superiors.

Mr. Dunlop read also extracts from the celebrated *manifesto*, or exposition of church principles issued by the moderate party, to which the same Inverkeithing case gave birth. The commission of assembly had in that case, as already noticed, declined to punish a refractory presbytery. The *manifesto* in question, in the preparation of which Principal Robertson had the chief hand, inveighed against that too tolerant commission as guilty of betraying the very first principles of all government, whether civil or ecclesiastical. "They," said this famous document, "who maintain that such disobedience deserves no censure, maintain, in effect, that there should be no such thing as government and order,—they deny those first principles by which men are united in

Mr. Dunlop refers to the famous manifesto of Principal Robertson.

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Extract from the Robertsonian manifesto.

society, and endeavour to establish such maxims as will justify not only licentiousness in ecclesiastical, but disorder and rebellion in civil government. And, therefore, as the reverend commission have, by this sentence, declared, that disobedience to the supreme judicature of the church neither infers guilt nor deserves censure,—as they have surrendered a right essential to the nature and subsistence of every society,—as they have, so far as lay in them, betrayed the privileges and deserted the order of the constitution; we could not have acted a faithful part to the church nor a safe one to ourselves, unless we had dissented from this sentence; and craved liberty to represent to the venerable assembly that this deed appears to us to be manifestly beyond the powers of a commission." In other words, the moderate party of 1752 held it to be beyond the powers of a commission to *refrain* from punishing a presbytery that refused to give effect to a sentence of the general assembly. Whereas it was the complaint of the moderate party of 1840 that the commission had gone beyond its powers when it did punish a far grosser act of disobedience than that of 1752. The offence of the presbytery in 1752 was that of declining to carry into effect a particular sentence of the assembly. The offence under discussion in 1840 was that of not only declining to do the thing the assembly had ordered, but that of doing ultroneously the thing which the assembly had forbidden. It was not a case of passive resistance, merely, to the authority of the supreme ecclesiastical court,—but a case of active and resolute rebellion. Had the presbytery of Strathbogie

The Commission of 1752 *refrained* from punishing a disobedient Presbytery, and the moderate party condemned it. They now condemn it for punishing a far grosser act of disobedience.

gone no farther than the presbytery of Dunfermline,— had they simply stood still and done nothing,—no act of suspension would have gone forth against them. It was not alone, however, the contumacy of the seven brethren with which the Assembly had now to deal. There were other and later proceedings of theirs by which that original offence had been entirely outdone. They had attempted to interrupt, by bringing in the arm of the civil power, the course of ecclesiastical discipline and the administration of the ordinances of the gospel. They had violated that great cardinal doctrine of the church's constitution,— that, "The Lord Jesus Christ, as King and Head of his church, hath therein appointed a government in the hands of church officers, distinct from the civil magistrate," and that "to these officers the keys of the kingdom of heaven are committed." This they had done by recognizing in the civil court a power to set aside the spiritual censures of the church, and to confer a title to exercise the spiritual functions of the ministry. Notwithstanding of all this, Mr. Dunlop said he would not propose now to proceed at once to libel these parties for their offence. He wished the court to do nothing rashly; but that the proceedings of the assembly should be in such a form as should bring out the true character of what had been done; and it could not be forgotten that they were not proceeding to punish a contempt of their own authority, but a contempt of the authority of the Lord Jesus Christ. But before pronouncing any sentence at all, he desired to deal once more with these unhappy men. The commission had appointed a committee to deal with

Aggravations in the case of the seven ministers.

Mr. Dunlop proposes that they should deal with the suspended ministers before proceeding to libel.

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Refers to the conference which had been offered before, and to the way in which it was treated.

them,—a committee of most admirable and venerated men,—who had abstained from any one act that could create prejudice or hesitation on the part of these seven gentlemen to engage in the conference,—Dr. Gordon, the present moderator, and Mr. Bruce. These three, in the dead of winter, proceeded to Aberdeen to hold a conference with their misguided brethren. They had communicated with them beforehand, but were not made aware that they would not be met. They were allowed to go north: and did these ministers see these venerable men face to face? They sent an *agent*. They asked if the deputation had any more powers than those which they knew had been conferred by the commission; and if the deputation could repone them,—though they knew they could be reponed only by the presbytery or by the general assembly. They knew, moreover, that whenever they declared their readiness to obey the church, that moment their sentence would fall. An answer being returned, of course, that the deputation had no power but from the sentence of the commission,—instead of meeting them face to face as brother ministers of the gospel, the suspended ministers sent them a paper drawn up several days before the reverend deputation had left Edinburgh, giving reasons why they would hold no conference. They refused to listen to the counsels of christian piety and wisdom."

He would recommend, notwithstanding, that it should be offered again.

"But though they had refused such conference," continued Mr. Dunlop, "still the church ought to make one effort more, not from any consideration as to how their proceedings might be viewed elsewhere, but for the sake of these men themselves. And what

he now proposed was, that in respect of the proceedings of these parties in violating the orders of the commission, and of the general assembly, with regard to the settlement of Mr. Edwards, this assembly do find that they are censurable; and with regard to the other matters brought up,—that they are liable to be proceeded against according to the laws of the church,—but that before pronouncing any sentence and determining the nature of that sentence, a commission of this house shall be appointed to deal with these men, and report to a subsequent diet of this assembly."

Moves that they should be found censurable, and a committee appointed to deal with them.

In moving an amendment to the motion of Mr. Dunlop, Dr. Cook admitted that "if we had merely an ecclesiastical question to deal with, these ministers would be censurable for not obeying their ecclesiastical superiors." "But," said he, "there is one element which is the peculiar and distinguishing characteristic of this case,—which takes it out of the whole analogical reasoning of the honourable gentleman,—and it is on that point that we ground our opinion regarding it." This "one element" was "an interposition *ab extra*,—an interposition by the highest judicatory of the country,—a declaration that the presbytery, acting as a court of the established church of the country, is bound and astricted to act in a particular manner with regard to what this very sentence affirmed to be a civil matter." The fallacy of an argument lies often in the use of a particular phrase. Dr. Cook and his friends were constantly in the habit of describing the sentence of the house of lords in the Auchterarder case, as the sentence of the "highest judicatory of the land." It was the sentence of the highest judicatory it

Dr. Cook opposes the motion,—his defence of the suspended ministers.

The fallacy of his argument.

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He assumes the point to be proved.

is true, in so far as the civil matters belonging to that case were concerned. But the whole question now in dispute was this—whether that judicatory had any jurisdiction at all, either supreme or subordinate, in the spiritual matters which that case involved. In so far as it had assumed jurisdiction in these spiritual matters, the ground taken by the church was this—that not only was it not the highest competent judicatory in the land, but that it was not a competent judicatory at all. In point of fact, that "highest judicatory" had never as yet gone further than to pronounce an abstract general doctrine,—it had issued no order upon the presbytery of Strathbogie, requiring them to "receive and admit" Mr. Edwards, or even "to take him upon trials." In reference to the haste and zeal of the seven brethren in proclaiming, in these circumstances, their determination to take their orders from the courts of law, and to set the orders of the church at nought, Dr. Cook urged this in their defence —that the simple declaration of the law was enough, and that as "good and dutiful subjects of the realm," they were bound not to wait till an order for its application in their particular case should be issued. And finally, in vindication of their conduct in appealing to the court of session to protect them against the spiritual censures of the church, Dr. Cook offered this singular defence:—"How did they apply to the court of session? They said that the commission had pronounced a sentence of suspension, which sentence the presbytery were warranted by the church not to obey till it should be confirmed by the church itself: and that they came to the court of session just because their

The civil courts had not issued any order on the seven ministers. Dr. Cook's answer to this.

His defence of their application to the civil courts.

spiritual superiors would not receive them at all. The suspension was a suspension from their *status* as ministers,—not only ecclesiastical but judicial. They held that status by the law of the land." If this argument was good for anything, it was good for a great deal more than the vindication of the Strathbogie ministers. It would equally vindicate any minister suspended or deposed for heresy or immorality, in arresting the church's spiritual sentence by the help of the civil arm,—and in preventing the church from providing for the spiritual oversight of the flock which he had been misleading by his false doctrine, or scandalizing and corrupting by his profligacy. In a word, the argument went the whole length of the erastian theory,—by referring the ultimate authority, in all questions of church government, to the civil power. The amendment of Dr. Cook contained, as might be anticipated, from such a line of argument, a full exoneration of the Strathbogie ministers. It proposed that, "as the said sentence was pronounced on these ministers for having conscientiously yielded obedience to the positive instructions of the supreme civil court, in what was stated by these courts to be a civil matter, —in the peculiar circumstances and unresolved difficulties of the case, they are not on this account to be considered censurable, and the general assembly therefore remove the sentence of suspension, and restore them to the full exercise of their ministerial functions."

His argument would prove that in every case of suspension and deposition the civil court is entitled to interfere.

Dr. Cook's motion to acquit the seven ministers.

The true character of Dr. Cook's argument was ably exposed by the Rev. Dr. Patrick M'Farlan. "Dr. Cook has said," observed Dr. M'Farlan, than whom no one better understood the whole question of

Rev. Dr. P. M'Farlan replies to Dr. Cook.

CHAP. XI. the intrinsic jurisdiction of the church, "that had there been no peculiar element in this case, he would have been certainly disposed to go along with Mr. Dunlop in finding that the seven ministers of Strathbogie had acted wrong, in not complying with the injunctions of the assembly's commission. The element to which he refers is, that there has been an interposition from the civil courts,—that the civil courts had interposed their authority, and that it was necessary that the seven ministers of Strathbogie should submit to that authority. I ask, what does the declaration of my reverend and learned friend amount to, but this, that we are to renounce the authority of the church courts in every instance where it shall be found to come into collision with the civil courts,—that we in every thing ought to obey their commands as those of our superiors,—to obey them as commands issuing from the highest of all authority,—that whenever those commands are made by a declaration or order from a civil court, the authority of the church is to be held in abeyance, and that we are to acquiesce without hesitation in the deliverance. I just go with the principle,—I say if we be right in holding that the Lord Jesus Christ has established an authority in his church, separate from the authority of the civil magistrate: and if we hold it as a matter of faith, it is impossible that, in these circumstances, we can acquiesce. If it be true, that there is a supreme ecclesiastical authority, and I suppose no minister of this church can deny this: and if that ecclesiastical authority be vested in the assembly, I say, that in these circumstances, we cannot go in opposition to the

Shows that Dr. Cook's argument amounts to a complete surrender of the jurisdiction of the Church.

solemn vows and engagements which we took on at our ordination, that we held the doctrines of the confession of faith, and abide by them and act by them. Then, however painful, we can have no hesitation whatever in saying, that they must obey the orders of the supreme ecclesiastical court." Dr. M'Farlan also replied with great effect, to the statements of Dr. Cook as to the declaration of the law being tantamount to an order to put it in force. It was true, the civil court in the Auchterarder case had made a general declaration of the law. But the whole question as to the legal effect of that declaration was still undetermined. The church held that its legal effect amounted to no more than this, that in every case in which she rejected a presentee solely on the ground of the dissent of the congregation, she forfeited, *pro hac vice*, the parochial benefice. The pursuers in the Auchterarder case, on the other hand, and those who took part with them in the controversy, maintained that the legal effect of the general declaration of law, was to bind presbyteries, under the usual compulsitors of law, actually to take the rejected presentee on trials. But this was the very point that was involved in the second Auchterarder case, and in that case a final judgment was not pronounced till the summer of 1842. No party, therefore, was entitled in 1840 to make that assumption, by the help of which Dr. Cook sought to defend the conduct of the Strathbogie ministers. "If ever," said Dr. M'Farlan, "there was a case where they were called upon to pause,—to delay till the last moment,—this was the case: because on the

They must enforce obedience, in matters spiritual, to the sentences of the Church courts.

Dr. Cook assumed that the still undecided question involved in the second Auchterarder case was already determined.

CHAP. XI.

one hand, the authority of the supreme ecclesiastical court told them not to proceed with the case, but to report: and on the other hand, there was no direct order from the civil court to proceed with it." It was in these circumstances that they wantonly and recklessly rushed into a conflict with their own ecclesiastical superiors. The church courts asked them simply to delay,—the civil court had issued no command to proceed. It was, therefore, their own gratuitous deed, which had done all the mischief,—a mischief of which it was but the smallest part that it compelled the church to inflict upon them the sentence of suspension. The far greater mischief, and that apparently for the sake of which the collision was courted, was the fresh and formidable difficulty which it put in the way of that legislative adjustment the assembly was labouring so energetically to secure, and the obtaining of which was so indispensable, not only to the peace, but to the integrity of the national church. After a lengthened discussion, in which the Rev. Drs. Bryce and Anderson, the Rev. Messrs. Hunter and Paull, and Captain Dalrymple, were the chief speakers on the side of Dr. Cook's amendment, and the Rev. Dr. Simpson, and Mr. D. M. Makgill Crichton, on the side of the motion of Mr. Dunlop, the debate was closed. Before the decision, Sir George Clerk signified his inability to concur either with Dr. Cook in holding that the seven ministers were *not* censurable, or with Mr. Dunlop in deciding that they *were* censurable, before they had first been conferred with by a committee of the house. He declined, however, to make any separate

The conduct of the seven ministers as gratuitous as it was injurious.

The speakers in this debate.

Sir George Clerk could not agree with either motion.

motion. The vote being taken, accordingly, upon the motion and amendment, the motion of Mr. Dunlop was carried by 211 to 129.

That of Mr. Dunlop carried by 211 to 129.

On the following day, Friday the 29th of May, Dr. Cook gave in "reasons of dissent" for himself and other "members in the minority of the assembly, on the votes in the Strathbogie case." These reasons were seven in number; but the third and seventh were those in which the real difference between the dissentients and the majority of the assembly was distinctly disclosed. The third reason of dissent was expressed in the following terms:—"Because we are thoroughly persuaded, that the conduct of these seven gentlemen, in yielding obedience to the supreme civil judicatories of the realm, in what these judicatories, after the most anxious investigation, and after hearing all parties, under a voluntary appeal made to them by the church, had declared to affect civil rights, is conformable to the clearest principles of reason and the express injunctions of revelation,—and that, had they acted otherwise, they would have violated their duty as good citizens and faithful subjects,—subverting, as far as in them lay, the great and fundamental maxims upon the uniform and steady application of which the existence of the social union, and the numberless blessings which result from it, must depend." The seventh reason involved a difference from the views of the majority not less radical. "Because we consider that the sentence of censure, and confirmation of the suspension by the assembly from which we dissent, is totally invalid, in consequence of many of those who joined in pronouncing it not being legal parochial

Dr. Cook's reasons of dissent.

The third reason of dissent.

The seventh reason of dissent.

CHAP. XI. ministers, and thus having no title, either from the statute law of the church, or from the civil law, to be members of our church courts, or to take any part in those decisions of the general assembly, which affect the temporal and civil rights of the ministers of the church of Scotland. Upon this ground alone, independently of the strong reasons previously stated, the procedure of which we complain, appears to us to be unconstitutional and illegal, and will, in all probability, be declared to be so by the supreme civil authorities of the realm." The former of these two reasons of dissent is simply a broad and unequivocal declaration in favour of the erastian theory,—that in all matters, however strictly spiritual in their own nature, which appear to the civil tribunals to "affect" civil rights, the church is bound to take its orders from these civil tribunals alone. The usurpation of the church of Rome consisted in drawing matters, purely civil and temporal in their own nature, into the category of matters ecclesiastical, on the plea that they "affected" some ecclesiastical interest; and on this ground challenging jurisdiction over them. The theory of Dr. Cook and his friends went to establish a counter usurpation as gross and pernicious in the hands of the civil power, by allowing it to draw into the category of the civil and temporal, matters, in their own nature, purely ecclesiastical, on the plea that they affected some civil interest; and on this ground to challenge jurisdiction over them. The church of Rome, not contented with the keys of Peter, insisted on grasping Cæsar's sword as well. And Dr. Cook, in his zeal for Cæsar, would not only leave him in full possession

What is implied in Dr. Cook's third reason.

It sanctions a usurpation by the civil over the ecclesiastical, as gross as that which the Church of Rome claimed for the ecclesiastical over the civil.

of his legitimate weapon, the sword, but would hand over to him the keys of Peter too,—and this, moreover, on the express understanding, that should the church refuse to open and shut, to bind and loose, according as Cæsar turned the keys, she must be compelled to do it at the point of Cæsar's sword. The latter of the two reasons of dissent above-recited partook of the same erastian character with these additional aggravations: *first*, that the civil tribunals had at that time pronounced no judgment on the legal standing of the ministers of *quoad sacra* churches; and *second*, that it condemned Dr. Cook himself, whose motion, in 1833, first gave ministers of *quoad sacra* churches a seat in church courts. It seemed, therefore, as if, by committing themselves to principles like these, and making common cause with the Strathbogie ministers, Dr. Cook and his friends were determined to make the government of the church impracticable, and to precipitate the impending schism.

Erastianism of Dr. Cook's seventh reason of dissent, and its aggravations.

When the reasons of dissent were given in and read, a member of the house proposed that a committee should be appointed to answer them. Mr. Dunlop observed, that as a general rule, he was against answering reasons of dissent,—because the discussions and the authority of the house formed usually the best vindication of its decisions,—nor was it consistent with the dignity of the house to engage in a controversy with its own members. But the present case was peculiar, and would require peculiar treatment. "He had heard those reasons (of dissent) with the deepest sorrow, and they could not fail to create much anxiety. He was grieved to observe the encouragement they gave

Mr. Dunlop moves the appointment of a committee to answer the reasons of dissent.

CHAP. XI. to the suspended ministers to persevere in the unhappy course which they had entered upon; but the more solemn considerations which these reasons gave rise to, flowed from the declaration of principles therein contained. The dissentients, besides challenging the actings dissented from, not only disputed the legality of the constitution of the assembly, but avowed principles diametrically opposed to those on which the constitution of the church itself was founded, and on which alone the majority held that a church could be constituted in accordance with the law of Christ. It was now perfectly obvious, that if these parties persevered in acting on the opposite principles, now held by them, they and the present majority could not possibly continue ultimately to be members of one and the same church. This declaration by the dissentients was, unquestionably, the first step towards a schism in the church. It was, therefore, necessary at the very outset, to put upon record a declaration of those principles in which the church held her constitution to be founded. The circumstances in which all parties now stood were very solemn, and it was right that their respective principles should be explicitly declared. He therefore moved the appointment of a committee to prepare and record a declaration of the principles of the constitution of the church, in opposition to those set forth in the reasons of dissent by Dr. Cook and those who had adhered to him."

If the dissentients should follow out their principles, they and the majority could not continue in the same Church.

On Monday, the 1st of June, the committee appointed to confer with the seven ministers, gave in its report. Along with it there was laid, by the committee, on the table of the assembly, a statement, signed by the seven

Report of the committee appointed to confer with the seven ministers.

ministers, in which they avow, that "they deem themselves specially bound, alike by their oaths of allegiance and by their duty as subjects, and as ministers of the established church, having right to the offices of ministers of parishes under the law of the land, to give due effect and obedience to the decree of the supreme civil court pronounced against them." And further, in reference to their past conduct, instead of tendering any apology, they distinctly declare that, "for having taken that course they feel it impossible for them conscientiously to acknowledge that they have justly become the objects of censure by the church." The convener of the committee, the Rev. Dr. M'Farlan, of Greenock, referring to these sentiments and purposes of the suspended ministers, observed, that it was with the deepest pain he announced them to the general assembly. He had fondly hoped at the first meeting of the committee with these ministers to have "succeeded in obtaining from them an expression of regret for the course they had pursued, and of their willingness to submit themselves to the authority of the church. * * * He was grieved to say that his anticipations had been disappointed, and he felt the utmost pain in being compelled, in the discharge of his duty, to propose—that the sentence of suspension should be continued; that they should be cited personally to appear before the commission in August, and if they then continued contumacious, and refused submission to the church courts, that they should be served with a libel for that contumacy, and that the commission should proceed until the case was ripe for the next general assembly."

Statement of Dr. M'Farlan, the convener.

Is shut up to propose, that the suspension be continued, and that they be libelled by the Commission if they persist in their contumacy.

CHAP. XI. He would also appoint the commission in August next,—in the event of their submitting,—to remove the sentence of suspension, and to repone them in the exercise of all their functions as ministers of the church of Scotland. The course thus recommended was manifestly the only one consistent with the maintenance of a governing authority in the church. The laws of the church had been deliberately violated,—the orders of the general assembly and of its commission had been set at nought,—and the avowal was now made in the very face of the supreme ecclesiastical court, of a resolution to persist in maintaining the same attitude of disobedience and defiance. In opposing the motion of Dr. M'Farlan, Dr. Cook, in common with all the others who followed him on the same side, studiously shunned the real question in dispute. That question was — Does the constitution of the church, as ratified by law, empower the civil courts to prescribe their duty to church courts, in the examination and admission of ministers, and to coerce them in the performance of these proper ecclesiastical functions? Confounding the courts of law with the supreme power of the state, Dr. Cook assumed that the decision of the courts of law, upon this point, was the decision of the state: that because these courts had arrogated to themselves a jurisdiction in these matters, the jurisdiction was to be held as legally and constitutionally theirs: and hence that by the very terms of her establishment the church was bound to acknowledge it. But Dr. Cook could not be ignorant that this was to take for granted the very thing which the assembly emphatically denied. He

The course proposed the only one consistent with the maintenance of a government in the Church.

Dr. Cook's assumptions misrepresent the true state of the question.

could not but be aware that every individual of the majority conceded to the state, as readily and as fully as their opponents in this great controversy, the right to declare what were the conditions on which it had conferred on the church the immunities of her civil establishment, — to require either that these conditions should be strictly observed, or that the immunities of the establishment should be surrendered into the hands of the state again; but he also knew that, in common with a large and influential minority of the civil judges themselves, the majority of the assembly maintained, that the state had not given to the civil courts that peculiar jurisdiction which they had assumed and were now attempting to enforce; and hence, that in resisting that jurisdiction the assembly claimed to be standing not simply on scriptural, but also on strictly legal and constitutional ground. For Dr. Cook, therefore, to insinuate, as he ventured to do, that the general assembly were setting up claims as extravagant and intolerable as those of the "anabaptists of the reformation and of the fifth monarchy men of the great rebellion," was merely to substitute injurious and calumnious epithets in the room of fair and manly discussion. The debate was long and animated, but as the ground which it traversed was in all essential respects the same with that which had been already gone over in the preceding debates, both in the commission and in the assembly, any further details appear to be unnecessary. The amendment of Dr. Cook proposed to remove the sentence of suspension; another amendment, proposed by Dr. Simpson, recommended that it should be removed only in so far as ministerial and

Extravagance of Dr. Cook's accusations.

CHAP. XI.

pastoral functions were concerned, but continued as regarded those functions which were administrative and judicial. This second amendment, being put against that of Dr. Cook, was lost upon a division by 32 to 59. A final vote was then taken as between Dr. Cook's amendment and the original motion of Dr. M'Farlan, when the latter was carried by a majority of 64—the numbers being 166 to 102. In proportion to the number of members present upon this occasion, the majority now named was as large as in either of the two former divisions on this important case. The firm and unflinching attitude which throughout all these anxious and agitating debates the assembly preserved, was highly creditable to its courage and faithfulness. The temptations to give way were many and strong, and had fear or self-interest swayed the counsels of the non-intrusionists, these temptations would undoubtedly have prevailed. Nothing, however, in the progress of this momentous controversy was more marked or memorable than the calm consistency with which, in the face of constantly increasing dangers, the church kept her ground. Realizing from the very first the magnitude of those principles upon which the controversy turned, and feeling herself to be "set for their defence," as often, in her past history, she had been before, she experienced the faithfulness of that scripture promise, "as thy days, so shall thy strength be." It was at once a pleasing and a striking illustration of the dignified composure with which the assembly was enabled to meet the grave emergency which had arisen, that in the midst of this life and death struggle the whole ordinary business of the

The division: suspension confirmed by 166 to 102.

Calm consistency of the Assembly.

church was carried on with as much exactness and regularity as in the calmest period of her history. Instead of losing herself in the heat and hurry of this exciting conflict, and neglecting everything else in order to maintain it, the records of the assembly of 1840 will show, that never at any former time were the great educational and evangelistic schemes of the church more vigorously prosecuted, or her ordinary discipline administered with a wiser or a firmer hand. History tells of a Massena writing a dispatch to the dictation of Napoleon during the siege of Toulon, and when a cannon ball, which struck the ground at his feet, sent a shower of dust over the drum-head on which he wrote,—shaking the paper and quietly remarking, "we shall need no sand this time." It tells of a Nelson that, when preparing to seal his famous letter to the Crown Prince of Denmark at the battle of Copenhagen, a shot passing through the cabin cut the officer who was holding the light in two, —and when one of the bystanders thinking, not unnaturally in such circumstances, the sooner the affair was ended the better, hastily exclaimed, "here is a wafer,"—the great naval hero, without a feature discomposed or a nerve shaken, answered, with a placid smile, "no, no, bring another light,—we must not seem to be in a hurry just now," and sealed the document with all the calmness and precision of a secretary of state closing a dispatch in Downing-street. Reading such incidents, we regard with astonishment and admiration the coolness and self-possession these men displayed; and yet, after all, it was perhaps a bravery as true and of a still nobler kind which—in the midst

The ordinary affairs of the Church carefully attended to

CHAP. XI. of the harassing anxieties and accumulating hazards of the church's conflict—enabled those who had the direction of her affairs to attend to the minutest concerns, and to transact all the ordinary business of the church with as much equanimity and deliberation as if they had had nothing else to think of or to do. The Lord was adding fortitude to faith, and making His servants to know that He had not said in vain, "lo! I am with you always, even to the end of the world!"

CHAP. XII.

THE MODERATE LEAGUE, &c.

The moderate party identify themselves with the Strathbogie ministers.

By their reasons of dissent, noticed in the preceding chapter, the great bulk of the moderate party had now bound themselves up in the same bundle with the rebellious ministers of Strathbogie. The erastianism which Dr. Cook and his friends disclaimed at the outset of the controversy,—and which for some years thereafter they were at pains to mask under a system of obscure and ambiguous phraseology — was now openly and unhesitatingly, and in all its nakedness avowed. They no longer indulged in professions of zeal for the spiritual independence of the church. Such language was too glaringly in contradiction to the principles they had now sanctioned, and to the position they had assumed,—to admit of its being any longer employed. When the pressure of their opponents' argument tempted, at times, some member of the party, less discreet than valiant, still to venture upon the use of the old standard expressions upon the subject,—the sense of the ridiculous which it called up in the audience was usually so prompt and unequivocal in its manifestations, as to bring the bravado to an untimely end. By adopting the civil supremacy doctrine of the Dean of Faculty and the courts of law, they had committed themselves to a principle which no ingenuity of argument, nor subtlety of speech, could harmonize with the notion of an independent jurisdiction in any matters whatever, as belonging to the

The erastian principle to which they had committed themselves drags them on.

CHAP. XII. church. The line of demarcation upon this fundamental question between them and the evangelical majority,—a line which, in the earlier stages of the controversy, seemed sometimes very nearly to disappear, as when Dr. Cook, almost in the tones of an old covenanter, spoke of unfurling the banner of independence, and marching forth under it, to face any amount of hardship or persecution which it might cost to uphold it,—that line had now widened and deepened into an impassable gulph. It had at length become painfully manifest, that two totally different and altogether irreconcilable theories of the constitution of the church as a national establishment, lay at the root of this controversy. Standing on the sacred ground of Christ's sole Headship and supremacy as the church's only King and Lord,—a ground so broadly laid down in her standards, and so resolutely maintained in her history—a ground watered by the blood of her martyrs, and hallowed by their memories:—standing on that sacred ground, the evangelical majority affirmed, that in the exercise of her spiritual functions the church was not at liberty to take her orders from the temporal courts, and that the church's actual union with the state proceeded upon a full recognition of her right of self-government. They held that not only had the state ratified that right,—but ratified it as belonging to the church *jure divino*. On the other hand, without denying in so many words, the doctrine of Christ's sole Headship over the church, and the consequent obligation of church rulers to be guided in all matters spiritual by His word and will alone,—a doctrine which could not be denied without contradict-

In the earlier stages of the conflict, Dr. Cook spoke sometimes like an old covenanter.

The ground maintained by the Assembly.

ing the church's standards, and incurring the charge of heresy—the moderate minority of the assembly had gradually slid into the assumption, that because of her union with the state, the church was bound to leave it to the courts of law to determine for her, how far the doctrine of Christ's Headship extended, and to what cases it applied. They made no attempt, indeed, to reconcile that notion either with scripture and the confession of faith, on the one hand, or with the constitution and history of the church, on the other. But because the civil courts had pronounced that so it was,—the moderate party held this to be *probatio probata* of the fact,—and without thinking it at all necessary to establish it by either evidence or argument, they reasoned upon it as if it had been a first principle. Whatever appeared to the court of session "to affect civil rights," passed immediately, according to this view, from the jurisdiction of the spiritual to that of the temporal courts: the church ceased to be the final judge concerning it: from that moment it became her duty to dispose of it, not at all according to what she might judge to be the mind of Christ, as interpreted by her standards and embodied in her laws,—but absolutely and exclusively according to the dictation of the civil tribunal. This they declared to be "the law of the land,"—and hence their frequent and offensive charges of disloyalty and rebellion against those who presumed to be of another mind, and who still understood the law of the land upon that subject in the same sense in which the courts of law themselves had understood and applied it, from the revolution settlement till 1838.

The ground taken by the minority.

The charges of rebellion.

CHAP. XII.

The tone thus taken by the moderate party in the church became sensibly louder and firmer from the period of the rejection of Lord Aberdeen's bill. Supported, as they now felt themselves to be, by the chiefs of that political party to which Lord Aberdeen belonged, and to which everything indicated that the government of the country was very soon to be transferred, they were not indisposed to have pushed the conflict to extremities at once. This state of mind was still further strengthened by a conversation which took place, in the course of the same summer, in the house of commons. Up till this time, Sir Robert Peel had given no public expression of his sentiments on the merits of the Scotch church controversy. Though it was generally understood that Lord Aberdeen's whole proceedings had been taken with the full concurrence of the heads of the conservative party, the silence Sir Robert Peel had hitherto preserved on the great questions in dispute, left it in some uncertainty how far he was prepared to go in condemning the attitude towards the courts of law which the general assembly had assumed. That uncertainty, to whatever extent it had existed, was dissipated at once, by a speech which he delivered on the 27th of July, on the occasion of the house of commons voting a certain sum of money for the building of a new hall for the general assembly. After paying some compliments to the church of Scotland, as "one of the most important and useful instruments in propagating true religion," he went on to express his regret "that a portion of that church had placed itself in opposition (to the law) on a question of civil right. The supreme

Causes which made the moderate minority more confident in proclaiming and acting upon their erastian views.

The speech of Sir Robert Peel in July, 1840.

tribunal of Scotland had given its decision, and an appeal had been made to the house of lords. Upon a question which involved the interpretation of a statute, there could be no authority to act in defiance of a statute law of this country so interpreted." * * *

Sir Robert Peel accuses the Church of Scotland of opposing the law.

"He regretted that the church had come to a determination, not only to disregard the decision of the house of lords, but to place a contrary interpretation on it, and that they had not felt the pre-eminent obligation of setting an example to all the subjects of her majesty in Scotland, of paying implicit deference to the law after it had been so interpreted." Upon this altogether erroneous view of the case, this distinguished statesman felt himself at liberty to assume what it would have been reasonable to make at least some show of attempting to prove—that the church of Scotland was in actual rebellion against the law of the land. "The best evidence," he said, "which he could offer to the church of Scotland of his regard and respect for it, was to take this opportunity of inculcating upon its authorities a strict obedience to the law: and above all, to express a hope, that the obligations imposed upon them would induce them to set an example to those in communion with that church, by their own acts of deference and obedience to that law, as laid down by the constitutional authorities of the country." This attempt, made with such oracular authority, to hold up a christian church as a rebel against the law, and as, by its example, a mover of sedition among the people, was indeed nothing new. The apostles of our Lord were often met with the same charge. That it should have been made at that

His advice to the Church, and the offensive charge which it embodied.

CHAP. XII.

The mischievous encouragement thus given those who were defying the authority of the Church.

moment, however, in the British parliament, and by one occupying so influential a position there, was much to be regretted,—fitted, as it was, so directly and so powerfully to encourage that schism which the Strathbogie ministers had begun, and the prosecution of which was so certain to lead to the ultimate dismemberment of the national church. The attack was not unanswered. It called up one whose enlightened and unflinching advocacy of the great scripture principles and constitutional prerogatives for which the church was contending, has earned for him the gratitude and esteem of all who venerate the work of the Scottish reformers, and who know how to appreciate that integrity and manly firmness of character, which fears not to avow honest convictions, and to defend them wherever they may be assailed. It is told in scripture, to the honour of Onesiphorus, that even at Rome he was not ashamed of Paul's chain. It will be told, in the ecclesiastical history of his country, to the honour of Mr. Fox Maule, that he was not ashamed to identify himself, even in the house of commons, with the calumniated church of Scotland. "If," said he, replying to Sir Robert Peel, "that church had set itself up against the law of the land in matters of civil right, he would be the last man to stand up in its defence. But the general assembly of the church of Scotland had over and over again declared, that so far as civil rights were concerned, it would bow implicitly to the decisions of the law; but so closely was the possession of benefices bound together with induction to the cure of souls, that it was scarcely possible for those not acquainted with the constitution of the church

Mr. Fox Maule's speech in reply to Sir Robert Peel.

of Scotland to draw a line of demarcation between these two rights. But to those who knew the constitution of the church, the line was clear and distinct; and to them it was apparent that all the church and the general assembly had done was to say,—that while on the one hand they obeyed the law as to benefices, —still, they owed a duty to a higher authority than man, when they inducted to any portion of their church an individual who had a cure of souls." Mr. Maule was followed, on the same side, by a gentleman to whom the church, throughout her whole controversy, stood deeply indebted. That gentleman was Mr. Rutherford, the lord advocate of Scotland. Throwing the shield of his high legal office, as well as of his great professional learning, over the misrepresented and vilified church, he repelled, with energy and decision, the offensive accusations of Sir Robert Peel. "He regretted to hear the church of Scotland called rebellious; and if honourable gentlemen took the trouble to study the question with a little more attention, they would perhaps pause before resorting to the use of words implying such heavy censure. There was a broad distinction, the house would remember, between civil jurisdiction and spiritual jurisdiction. The church of Scotland had never denied the jurisdiction of the civil courts in matters civil; but then there came another question—Was the house prepared to sanction the authority of the civil courts to the extent of obliging the presbyterian church to receive into holy orders any presentee that might be offered by the patrons? No such power existed in respect to the church of England,—and would the house sanction

Distinguishes between the benefice and the cure of souls.

The Lord Advocate Rutherford repels the charge Sir Robert Peel had brought against the Church.

CHAP. XII.

its exercise as regarded the church of Scotland? * * * In England ordination preceded presentation; in Scotland both might be said to be done at once, and almost by the same act. In Scotland a patron chose a person not ordained; and the question, therefore, was whether the civil court should have the power to force that presentee, not into possession of the temporalities, but into an office with the cure of souls. These were the real differences as to the two churches; and he could assure the house that the decision in the Auchterarder case did not go nearly to the extent of forcing the presentee into holy orders; and he was sure that the learned judges who had given that decision would be the last persons in the world to justify such a step."

Shows that the claim of the civil courts was to interfere with the spiritual act of ordination.

Emphatic and important as was this repudiation of the charges brought against the church, the fact still remained, that the chief of that great political party that was already on the eve of accession to power, had committed himself in the face of the country to opinions that bound him, in all consistency, to support the moderate party in the resistance they were now offering to the authority of their ecclesiastical superiors. Moreover, as the whig leaders—though they allowed their subordinates to speak in support of the church—were themselves studiously silent, the effect of this parliamentary discussion was, undoubtedly, to render the recusant ministers of Strathbogie, and those who supported them, more resolute in their purpose to disregard and defy the censures of the church. Already, indeed, an association had been secretly formed—under the auspices of Dr. Cook and other

The attitude and tone of the political chiefs of both parties in the State fitted to encourage the Strathbogie rebellion.

prominent members of the more extreme section of the moderate party—with a view to band together the dissentients of the late general assembly in a combined opposition to its authority. A letter was prepared, dated, Edinburgh, 1st July, 1840, and signed by Dr. Cook, and others,—containing a copy of this not very "solemn league and covenant" of moderatism. The document in question,* to the great discomfort of its

The moderate league of 1st July, 1840.

* "We whose names are hereto adhibited, being ministers, elders, and members of the established church of Scotland, concur in the following resolutions:—

"1st, That in the present perilous situation of our church, occasioned or increased by the proceedings of the last general assembly, it becomes necessary for the ministers, elders, and other members of the establishment, cordially to unite and co-operate for mutual support and defence against the consequences which may result from those proceedings, and which may most seriously affect us both collectively and as individuals.

"2d, That a large minority of the members of the late general assembly, having entered their dissents from the above specified proceedings, and put on record the reasons for so doing, the subscribers hereby resolve to adopt these reasons as the basis of the association thus formed for the defence of the *constitution of the church*, and of its ministers and members.

"3d, That for the accomplishment of the object in view, a correspondence shall be immediately opened with all the dissentients in last general assembly, and other friends of the church in every synod, inviting them to join in promoting and securing the important purposes for which the association is instituted.

"4th, That a general meeting of those who agree to these resolutions shall be held at Edinburgh on the 12th day of August next, at nine o'clock, A.M., for maturing the plans of the association, and for adopting such resolutions as may then be deemed requisite.

"5th, That previously to the said meeting, each subscriber shall contribute one pound, at least, to be applied as the subscribers then shall appoint;—the subscriptions to be transmitted to H. D. Hill, Esq., W.S., George Street, Edinburgh.

(Signed) GEORGE COOK and others."

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authors, fell prematurely into the hands of those from whom it was meant to be concealed,—at least, until the plot should have been ripe for execution. The intention of the parties concerned seems evidently to have been to have turned the mutiny of Strathbogie into a general insurrection, and in this way to have so multiplied the number of the rebels against ecclesiastical authority as to have made the exercise of church discipline practically impossible. The 12th of August was fixed for the meeting of the secret conclave in which the plans of the confederates were to be finally arranged, and the same day that sends the sportsman to the hills was to have witnessed the springing of the mine by which moderatism was to have blown spiritual independence and non-intrusion into the air. The time, however, had not yet come—nor was this destined to be the way—in which the drama of this eventful conflict was to be finally wound up. The discovery of the secret circular, and the consequent revelation of the intended movement, led on the instant to the adoption of measures on the other side so energetic and decided as to have led to the abandonment of the whole design. One combination could be effectually counteracted only by another; an "engagement" was accordingly drawn up, after full and prayerful deliberation on the apparently approaching crisis, in the following terms:—

The object of this intended confederation.

The counter movement of the friends of the Church's constitutional liberties.

"Whereas it is the bounden duty of those who are entrusted by the Lord Jesus with the ruling of His house, to have a supreme regard in all their actings to the glory of God the Father, the authority of His

The engagement.

beloved Son, the only King in Zion, and the spiritual liberty and prosperity of the church which He hath purchased with His own blood.

Reasons for the engagement.

"Whereas, also, it is their right and privilege, and is especially incumbent upon them in trying times, as well for their own mutual encouragement and support as for the greater assurance of the church at large, to unite and bind themselves together, by a public profession of their principles, and a solemn pledge of adherence to the same, as in like circumstances our ancestors were wont to do.

"And, whereas, God in His providence has been pleased to bring the church of Scotland into a position of great difficulty and danger by acting according to the dictates of conscience and the word of God, imminent hazard of most serious evil, personal as well as public, is incurred.

"In these circumstances it being above all things desirable, that in the face of all contrary declarations and representations, our determination to stand by one another and by our principles should be publicly avowed, and by the most solemn sanctions and securities, before God and the country, confirmed and sealed,—

Prefatory declaration.

"We, the undersigned, MINISTERS AND ELDERS, humbling ourselves under the mighty hand of our God, acknowledging His righteousness in all His ways, confessing our iniquities and the iniquities of our fathers, mourning over the defections and shortcomings which have most justly provoked His holy displeasure against His church; adoring, at the same time, His long-suffering, patience, and tender mercy,

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and giving thanks for the undeserved grace and loving kindness with which He has visited His people and revived His cause, under a deep sense of our own insufficiency, and relying on the countenance and blessing of the great God and our Saviour, Do deliberately publish and declare our purpose and resolution to maintain—in all our actings, and at all hazards to defend—those fundamental principles relative to the government of Christ's house, His church on earth, for which the church of Scotland is now called to contend,—principles which we conscientiously believe to be founded on the word of God, recognized by the standards of that church, essential to her integrity as a church of Christ, and inherent in her constitution as the established church of this land.

The principles which the engagement was designed to uphold.

"The principles now referred to, as they have been repeatedly declared by this church, are the two following, viz.:—I. 'That the Lord Jesus, as King and Head of His church, hath therein appointed a government in the hand of church officers distinct from the civil magistrate.' II. 'That no minister shall be intruded into any parish contrary to the will of the congregation.'

"To these principles we declare our unalterable adherence, and applying them to the present position and the present duty of the church, we think it right to state still more explicitly what we conceive to be implied in them.

"1. We regard the doctrine—'that the Lord Jesus is the only King and Head of His church, and that He hath therein appointed a government in the hands of church officers, distinct from the civil magistrate;'

Exposition of the independent jurisdiction of the Church.

this sacred and glorious doctrine we regard as fencing in the church of God against all encroachments and invasions, inconsistent with the free exercise of all the spiritual functions which the Lord Jesus has devolved either upon its rulers or upon its ordinary members. While, therefore, we abhor and renounce the popish doctrine, that the government, appointed by the Lord Jesus in His church, has jurisdiction over the civil magistrate in the exercise of his functions, or excludes his jurisdiction in any civil matter, we strenuously assert that it is independent of the civil magistrate, and that it has a jurisdiction of its own in all ecclesiastical matters, with which the civil magistrate may not lawfully interfere, either to prevent or to obstruct its exercise.

"2. In particular, we maintain, that all questions relating to the examination and admission of ministers, or to the exercise of discipline and the infliction or removal of ecclesiastical censures, lie within the province of the church's spiritual jurisdiction; and all such questions must be decided by the church officers, in whose hands the government is appointed, according to the mind and will of Christ, revealed in His word,—not according to the opinions or decisions of any secular authority whatsoever. We are very far, indeed, from insisting, that the judgments of the competent church officers, in such questions, can of themselves carry civil consequences, or necessarily rule the determination of any civil points that may arise out of them. In regard to these, as in regard to all temporal matters, we fully acknowledge the civil magistrate to be the sole and supreme judge,—bound,

What is included in the jurisdiction of the Church.

CHAP. XII. indeed, to have respect to the word of God and the liberties of Christ's church, yet always entitled to act independently, on his own convictions of what is right. But in regard to all spiritual consequences, and especially in regard to the spiritual standing of members of the church and their spiritual privileges and obligations, the judgments of the church officers are the only judgments which can be recognized by us as competent and authoritative. And if, at any time, the civil magistrate pronounce judgments by which it is attempted to control, or supersede, or impede the sentences of the church officers in these spiritual matters, and in their spiritual relations and effects, we must feel ourselves compelled to act upon our own conscientious interpretation of the will of Christ,—disregarding their judgments as invalid, and protesting against them as oppressive.

Duty of the Church when the civil powers interfere with her proper jurisdiction.

"3. As the Lord Jesus has appointed a government in His church, in the hands of church officers, so we believe, at the same time, that He has invested the ordinary members of His church with important spiritual privileges, and has called them to exercise, on their own responsibility, important spiritual functions. In particular, we are persuaded that their consent, either formally given, or inferred from the absence of dissent, ought to be regarded by the church officers as an indispensable condition in forming the pastoral relation; and that the act of a congregation agreeing, either expressly or tacitly, or declining to receive any pastor proposed to them, ought to be free and voluntary, proceeding upon their own conscientious convictions, and not to be set aside by the church

Application of the doctrine to the question of non-intrusion.

officers,—the latter, however, always retaining inviolate their constitutional powers of government and superintendence over the people. We hold it, accordingly, to be contrary to the very nature of the pastoral relation, and the end of the pastoral office,—altogether inconsistent with the usefulness of the church, and hostile to the success of the gospel ministry—an act of oppression on the part of whatever authority enforces it, and a cause of grievous and just offence to the people of God,—that a minister should be settled in any congregation in opposition to the solemn dissent of the communicants. We deliberately pledge ourselves, therefore, to one another, and to the church, that we will, by the help of God, continue to defend the people against the intrusion of unacceptable ministers,—and that we will consent to no plan for adjusting the present difficulties of the church, which does not afford the means of effectually securing, to the members of every congregation, a decisive voice in the forming of the pastoral tie.

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Reasons for condemning the intrusion of ministers.

The engagement as to non-intrusion.

"4. And, further, with reference to the question of civil establishments of religion, which we believe to be deeply and vitally concerned in the present contendings of the church, we feel ourselves called upon to bear this testimony,—that holding sacred the principle of establishments as sanctioned both by reason and the word of God,—recognizing the obligation of civil rulers to support and endow the church, and the lawfulness and expediency of the church receiving countenance and assistance from the state,—we at the same time hold no less strongly, that the principles which we have laid down regarding the government of

Recognition of the principle of Church establishments.

CHAP. XI'. Christ's church and the standing of his people, can not be surrendered or compromised for the sake of any temporal advantages, or any secular arrangements whatsoever: that it is both unwise and unrighteous in the civil magistrate to impose upon the church any conditions incompatible with these principles: and that no consideration of policy, and no alleged prospect of increased means of usefulness, can justify the church in acceding to such a condition. We emphatically protest against the doctrine, that in establishing the church, the civil magistrate is entitled to impose any restrictions on the authority of her office-bearers, or the liberties of her members. On the contrary, we strenuously assert, that it is his sacred duty, as it is his interest, to give positive encouragement and support to the church in the exercise of all her spiritual functions,—for thus only can God, from whom he receives his power, be fully glorified, or the prosperity and greatness of any people be effectually promoted. We admit, indeed, that as supreme in all civil matters, the civil magistrate has always command over the temporalities bestowed upon the church, and has power to withdraw them. But he does so under a serious responsibility. And at all events the church, whilst protesting against the wrong, must be prepared to submit to their being withdrawn, rather than allow him to encroach upon that province which the Lord Jesus has marked out as sacred from his interference.

Because the State establishes the Church, it is not, therefore, to control the Church in matters spiritual.

Control of the State limited to the disposal of its own gifts.

"5. While we consider the church's course of duty to be plain, if such an emergency as we have supposed should arise, we have hitherto believed, and notwithstanding the recent adverse decisions of the civil courts,

Liberty of the Church of Scotland ratified by law, &c.

we still believe that the constitution of the established church of Scotland, as ratified by the state at the eras of the revolution and the union, when after many long struggles, her liberty was finally achieved, effectually secured that church against this grievous evil. The only quarter from whence danger to her freedom ever could, since these eras, be reasonably apprehended, is the system of patronage: against which, when it was restored in 1711, the church strenuously protested, and of which,—as we have much satisfaction, especially after recent events, in reflecting,—she has never approved. The restoration of that system we hold to have been a breach of the revolution settlement and the treaty of union, contrary to the faith of nations. Even under it, indeed, we have maintained and will contend to the uttermost, that the constitution of the church and country gives no warrant for the recent encroachment of the civil courts upon the ecclesiastical province: that in terms of that constitution the church has still wholly in her hands the power of examination and admission, and in the exercise of that power, is free to attach what weight she judges proper, to any element whatever, that she feels it to be necessary to take into account, as affecting the fitness of the presentee, or the expediency of his settlement: and that unquestionably in whatever way the church may deal with the question of admission, the civil courts have no right to interfere, except as to the disposal of the temporalities. But while we have taken this ground, and will continue to maintain it to be lawful, constitutional, and impregnable, even under the restored system of patronage, we avow our opposi-

The act of Queen Anne was never understood till now to have touched the spiritual rights of the Church.

CHAP. XII. tion to the system itself, as a root of evil in the church which ought to be removed,—the cause in former times of wide-spread spiritual desolation in the land, as well as of more than one secession of many godly men from the church,—and the source in these our own days, of our present difficulties and embarrassments. We look upon the recent decisions of the civil courts, as illustrating the real character of that system of patronage which they attempt so rigidly to enforce: making it clear that it does impose a burden upon the church and people of Scotland, greatly more grievous than it was ever before believed to do. We consider it to be impossible for the church, so long as this matter continues on its present footing, fully to vindicate, or effectually to apply her inherent and fundamental principles: and it is now more than ever our firm persuasion, that the church ought to be wholly delivered from the interference of any secular or worldly right at all, with her deliberations relative to the settlement of ministers. We declare, therefore, our determination to seek the removal of this yoke, which neither we nor our fathers have been able to bear: believing that it was imposed in violation of a sacred national engagement, and that its removal will, more effectually than any other measure, clear the way for a satisfactory and permanent adjustment of all the questions and controversies in which we are now involved.

Light thrown by late decisions of the civil courts on the mischiefs of patronage.

Resolution to seek the abolition of patronage.

"Having thus set forth the principles on which we are united, being deeply impressed with a sense of their sacredness and magnitude, having our minds filled with solemn awe as we contemplate the crisis to

which God, in his holy providence, has brought this church and kingdom,—a crisis of immediate urgency and of momentous issues, in which great principles must be tested, and interests of vast extent may be affected; and desiring to deliberate and act with a single eye to the divine glory, and a simple regard to the divine will,— CHAP. XII.

"We, the undersigned, MINISTERS AND ELDERS, do solemnly, as in a holy covenant with God and with one another, engage to stand by one another and by the church which God's own right hand hath planted among us, promising and declaring that, by the grace and help of Almighty God, we will adhere to the two great principles which we have avowed; and in all our actings as office-bearers in the church, will do our utmost, at all hazards, to carry them into effect; and that we will consent to no surrender or compromise of the same, but will faithfully and zealously prosecute our endeavours to obtain a settlement of the present question, in entire accordance therewith. Engagement of Ministers and Elders to stand by one another.

"And considering, that in this struggle in which the church is engaged, it is most necessary that we should be assured of the concurrence and co-operation of the christian people, on whose sympathy and prayers we, in the discharge of our functions as rulers, greatly lean, and by whose influence and assistance we can best hope effectually to press upon the governors of this great nation the just claims of the church,— The appeal to the people.

"We do most earnestly and affectionately invite our friends and brethren, members of the church of our fathers, to come to our help and to the help of the

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The members of the Church invited to concur in this movement.

Lord,—to declare their concurrence in the great principles for which we are called to contend, and their determination to do all in their power, in their station and according to their means and opportunities, to aid us in maintaining and defending these principles, so that they, as well as we, shall consider themselves pledged to uphold the church in her present struggle, and, in particular, to use the powers and privileges which, as the citizens of a free country, they have received from God, and for the exercise of which they are responsible to Him for this, above all other ends, that the determination of the legislature of this great nation, whenever this subject shall come before them, may be in accordance with those principles which all of us hold to be essential to the purity of the church and the prosperity of the people.

Members of the Church invited to protest against the law of patronage.

"We, in an especial manner, invite them to raise a united and solemn protest against the system of patronage, which, unjust and obnoxious as it was in its first enactment, the decisions of the civil courts are now rivetting more firmly than ever on the reclaiming church of their fathers. The entire removal of that system they have the fullest warrant to claim on the ground of their ancient constitution and the solemn guarantee by which their national freedom and their religious faith have been secured; and, finally, recognizing the hand of God in our present troubles, depending wholly on His interposition for a happy issue out of them, and remembering what our fathers have told us,—what work the Lord did in their days and in the times of old, we call upon the christian people to unite with us in a solemn engagement to

bear the case of our beloved church upon our hearts, in prayer and supplication at the throne of God, beseeching Him to turn the thoughts of those who are against us, and to guide us in the right way, so that under His over-ruling providence and by the operation of His Almighty Spirit, the cause of truth and righteousness may be advanced, and the work of righteousness may be peace, and the effect of righteousness, quietness and assurance for ever."

The conclusion. The engagers look to God.

Long as this document is, we have introduced it entire. It will serve to illustrate, to those who trace this history, two important facts,—the one, that the men who headed the church in this eventful conflict, thoroughly understood their ground,—the other, that even so early as 1840, they distinctly foresaw the probability of being called to maintain it at the expense of the separation of church and state. Already coming events were casting their shadows before them; and dark as these shadows were, they scared no man from his post. Looking to the steps taken by their moderate brethren, and anticipating nothing but the outbreak on the 12th, to which the secret circulars of that party so distinctly pointed, the friends of evangelical and reforming principles felt as if the time had come for setting their house in order, and preparing for the final struggle. The "engagement" was their solemn and deliberate intimation to all concerned, that they had counted the cost, and would not shrink from paying it. It was a banner which they had made up their minds, by God's help, to display at all hazards for the truth,—and to display, not in some secret corner, but in the face of the

What this document illustrates.

The warning it conveys to the dissentient minority.

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Public meeting in support of the engagement, 11th Aug., 1840, in Edinburgh.

world. A public meeting was accordingly summoned for the evening of the 11th of August. It was held in the parish church of St. Cuthbert's, the largest church in Edinburgh. This immense edifice was thronged to suffocation with office-bearers and members of the church, eager to take part in this solemn meeting. Resolutions in harmony with the principles of the "engagement" were adopted with unanimity and enthusiasm,—and a large and influential association was formed, and steps were taken to establish similar associations in every part of Scotland. In a word, the trumpet gave so certain and so strong a sound, and so many had evidently made themselves ready for the battle, that the courage of Dr. Cook and his allies seems to have failed them. At least, nothing more was heard of their movement,—nor of what came to be called, from its proposed conditions of membership, "the twenty shilling league."

Meeting of the Commission, on 12th August, 1840.

The commission met on the following day. It had been intended to meet in the assembly aisle in St. Giles', but the crowd which thronged the doors made it abundantly manifest that much more ample accommodation would be required. The Tron church was accordingly at once resorted to; and so great was the attendance both of members and of the public, that the commission had all the appearance of a general assembly. The same cause—the expected demonstration of the moderate party—which had congregated the vast multitude that filled St. Cuthbert's the night before, had filled the Tron church now. Although the demonstration was not made, and the secret conclave of the morning had, so far as appeared, generated nothing,—both the members of the commission

and the audience found themselves in a sufficiently exciting scene. Another act was performed in the great drama of the Strathbogie case. The preceding general assembly had "enjoined the commission, in the event of the said ministers continuing contumacious, to take the necessary steps for serving them with a libel,"—and had cited the seven ministers "to appear before the commission in August," with the usual certification. Disregarding this citation, they failed to appear; and as if to aggravate this contempt of the orders of the supreme court of the church, a minute was handed in by their agent, stating "that he had been instructed by his clients to intimate that they did not intend to appear at this meeting of the commission, or at any of its other meetings to be held under the authority of the last assembly's resolutions and sentence relative to them." Since the assembly they had gone to the court of session and obtained an interdict against the whole proceedings which the assembly had taken against them. And in this minute they now informed the commission that they could not, "without acting inconsistently, recognize or sanction any part of the proceedings which have been suspended as illegal." This was, in other words, to say, that in matters undeniably spiritual, and which belonged to the ordinary duties of their office as ministers of Christ, they had thrown off their allegiance to the courts of the church, and put themselves into the hands of the courts of law. To have permitted so gross an outrage, would have been to make a mockery of those ordination vows which the church imposes

Proceedings of the Commission in the Strathbogie case.

The suspended ministers disown the jurisdiction of the Church.

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upon all its office-bearers, and to lay the church's authority in the dust. The commission having accordingly resolved, on the motion of Mr. Dunlop, to report this new act of contumacy to the general assembly, proceeded to the discharge of the duty they had been instructed to perform. The procurator, Mr. Bell, after an elaborate speech expository of that conflict of jurisdictions which had now arisen between the civil and ecclesiastical courts, made a motion to the effect, that the commission find the seven ministers to be still contumacious, and resolve to serve them with a libel. In opposition to this motion, an amendment was proposed by Dr. Cook, that "the commission, under all the circumstances of the case, see cause not to act upon the instructions of last general assembly, as to taking steps to serve with a libel for contumacy the seven ministers of the presbytery of Strathbogie, mentioned in these instructions, and report the whole matter to next assembly for reconsideration," &c. "What," said Dr. Cook, speaking in support of his amendment, "is the purpose for which deposition is contemplated? It is to deprive these venerable and excellent men of their sacred character, of their status in society, and of the emoluments of their benefices. And why? Because they refuse to set at nought the law of the land,—the solemn judgments of the only tribunals by which that law, as to what they declare to concern civil matters, can be administered."

Mr. Dunlop's motion to report this new act of contumacy to the Assembly.

Dr. Cook opposes the motion to libel the seven ministers.

To deprive the seven ministers of their emoluments was not, in any proper sense of the words, "the pur-

pose" for which their deposition was contemplated. The purpose intended by that act was to deprive them of a spiritual office which they were using, in direct opposition to the very authority by which it had been bestowed. If the loss of their spiritual office should carry the loss of their benefices in its train, it would do so, simply because the civil law had connected these two things together. The church had not said, nor had it ever pretended to have any right to say, that every minister whom she deprived of his spiritual office and cure, must also, and *ipso facto*, be deprived of his benefice. What the church did say, and was prepared at all hazards to maintain, was this,—that it belonged to her exclusively, to determine the circumstances in which ordination and the cure of souls were either to be given or taken away. But because the state had agreed that the title to the *temporalia* was to cease whensoever the title to the *spiritualia* should be withdrawn,—was the state on that account to be allowed to take the *spiritualia* into its own hand? Dr. Cook, re-echoing the new doctrine of the courts of law, assumed that it was. "Your sentence of deposition," said he, "will affect the livings of these men,—and, therefore, it belongs to the court of session not only to decide whether they have done anything to forfeit their livings, but also to hinder you from pronouncing the sentence of deposition at all, if that court shall be of opinion that it has not been deserved." Such a doctrine would obviously be as fatal to the liberties of a nonconforming as of an established church. In every church, the deposition of a minister

Reply to Dr. Cook.

Connection between deposition from the spiritual office, and deprivation of the benefice: Dr. Cook's argument founded on this connection.

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His argument fatal to the discipline of non-conforming as well as of established churches.

must ordinarily affect his status in society, and his emoluments too. If, therefore, this consequence were enough to entitle the civil tribunals to interfere, to the effect of suspending or superseding the spiritual sentence of the church,—ecclesiastical discipline must come to an end. The mere fact, that the state itself had conferred those emoluments of which the ecclesiastical sentence indirectly deprived the deposed minister, could make no real difference in the argument. It was the state's own choice to connect the forfeiture of its own gift with the loss of the spiritual office. Neither Dr. Cook, nor any one else, pretended to say that it was any part of the statutory condition on which the state had granted its endowments, that the courts of law should be allowed to review, and if they saw cause, to reverse the spiritual sentences of the church. His assumption was founded on a far broader principle. It rested, where the Dean of Faculty and the majority of the civil judges had placed it, on this simple and sweeping doctrine, that whatever "affected civil rights" became a proper subject of civil jurisdiction; and that it did so, not merely to the effect of entitling the civil court to guard the civil interests concerned in the case, but to the effect of empowering it to interdict the spiritual court from proceeding in the matter at all. The time will, perhaps, come, when the fact will be seen and acknowledged, in quarters where it was neither seen nor acknowledged at the time, that in withstanding Dr. Cook and the court of session, the church of Scotland was fighting a battle for the liberties of every section of the church of Christ.

The basis of Dr. Cook's argument.

In the course of the discussion a good deal had been said, by the apologists of the seven ministers, of the difficulties of their position,—threatened as they might consider themselves to be with the penalties of civil law, in the event of their following out the instructions of the church. It was in reference to this argument, *ad misericordiam*, that an old soldier, Mr. Charles Maitland Christie, of Durie, a faithful elder of the church, spoke as follows:—"You are aware, moderator, that when two hostile armies come into the vicinity of each other, it is not unusual to place picquets of defence in front of the main body. * * * I, sir, have had the honour of being placed in such a picquet; and when I was told by my commanding officer to consider it not as a picquet of alarm but as a picquet of defence, I felt, that if the enemy should advance upon that picquet of the line, it would be my duty to fight there and to die there. Now, suppose that on such an occasion seven of the officers received similar instructions, and suppose that the enemy should advance in apparently overwhelming numbers and endeavour to force their way through, by pouring a destructive fire into the midst of them,—and suppose that under these circumstances the seven officers took to their heels and ran away, and were brought before a court martial, and that they should plead that they had no choice but to run away and be dismissed from the British service, or, on the other hand, if they remained, to be shot by the enemy. But suppose that the enemy had advanced in this manner,—that they only made a demonstration of attack by sending out a reconnoitring party, and approaching within

The argument *ad misericordiam* in favour of the seven ministers, and Mr. Christie of Durie's reply to it.

The seven ministers compared to soldiers deserting their post.

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The Strathbogie soldiers ran away at the sight of the enemy's telescopes.

some seventy or a hundred yards of the British lines, took a look at them through their telescopes;—suppose that the seven officers had run away under these circumstances, and pleaded before a court martial,—not that the enemy had fired on them, but that if they had remained the enemy might have fired on them,—what, sir, would have been the effect, before a court martial, of such a defence?" The gallant soldier did not need to tell what its effect would have been: the hearty laughter of the house told it sufficiently well.

Another speaker, the Rev. Dr. Simpson, of Kirknewton, met in a graver but not less effective strain, the argument which Mr. Christie, by this stroke of sarcastic humour, overturned. "His reverend friend, Dr. Cook, had talked of the difficulties which arose from a mixed jurisdiction. He, Dr. Simpson, and his friends might feel a difficulty of this kind: but how Dr. Cook and his friends could feel any difficulty he did not see. They had merely to ask the court of session what was civil and what was ecclesiastical, and as obedient sons of the church, forsooth, they would obey it. His reverend friend said, You are about to punish these gentlemen,—and for what are you going to punish them? Because they refuse to set at nought the law of the land, and because they take their interpretation of the law from the only court competent to give it in civil matters. But the question reverts,—What is a civil matter and what an ecclesiastical. The very same court tells you that this is civil and that is ecclesiastical, and that we have nothing to do but to obey it. The speech of his reverend friend had astonished him beyond the power of expression, and if anything

Rev. Dr. Simpson's speech in opposition to Dr. Cook.

could add to that astonishment, it was that such a speech should have proceeded from such a quarter." Dr. Simpson's astonishment at the speech of Dr. Cook *then*, is most probably surpassed by his astonishment at his own speech *now*.* Astonishment with which Dr. Simpson must now regard his own speech.

The debate having been adjourned till the evening, was again resumed, and continued till far on in the night. The object of so protracted a discussion was not to gain votes in the commission; for the minds of its members were already made up, and the majority against the Strathbogie ministers, it was well known, would be very great. But the commission afforded an important opportunity, which the magnitude of the interests at stake made it necessary to seize, of instructing upon this whole subject both the members of the church and of the community in general. Save for this purpose, by far the larger portion of the discussion would have been altogether superfluous. In re-opening the debate, after the adjournment, Mr. Maitland Makgill Crichton,—the lineal descendant of that Makgill of Rankeillour, Lord Clerk Register of Scotland, who was the personal friend of Knox,—had to complain of nothing so much as of the want of an antagonist. He was himself the fourth speaker in succession on the same side of the debate. The fact was abundantly significant. It seemed to say that the supporters of erastianism had sheathed their swords, either for lack of argument,—or for lack of courage and ability to use them. The speech of the evening was that of Dr. Mr. D. M. Crichton's complaint.

* Dr. Simpson remained in the establishment. He did not run away, like the seven ministers, when the enemy were only looking at him through their telescopes;—he waited till they began to fire.

CHAP. XII. Chalmers. After an exposition of that great principle for which the church was now contending,—an exposition distinguished by all the attributes of his lofty and impressive eloquence,—Dr. Chalmers proceeded to advert to the notion some persons, and these high in station, appeared to entertain, that this was a contest in which he and his friends might be expected to give way. "We must stand out," said he, after enumerating the successive and intolerable encroachments of the courts of law,—"we must stand out against this series of aggressions thus rising in magnitude one above the other, else the most sacred, the most sacramental of our institutions, the very innermost recesses of the sanctuary, will be opened to the invader and trampled under foot. I know the obloquy which will be heaped upon us. I have heard the odious names which will be given us for this resistance: and I am prepared for them. If not an impartial public, at least an impartial posterity, will tell whether *we* are rebels, or *they* are persecutors. And here I may say one word to those who express the hope, and I observe that Sir Robert Peel is among the number,—that we will yet give up our personal feelings and do otherwise than this. To what personal feelings he refers, he does not specify,—whether it be the feeling of irritation or of false honour,—the pride of men who have committed themselves and gone too far to retract without shame and degradation. If so, never was an appeal made wider of its object. These personal feelings have no existence with us: or if they have, it is in such a slight degree, that they are altogether overborne by principles of a depth and height and breadth and length sufficient

Speech of the Rev. Dr. Chalmers.

Allusion to speech of Sir Robert Peel.

to engross and occupy the whole man. The principles, whether our adversaries comprehend them or not,—the only moving forces that have told and still tell on the assembly, are the full security of our spiritual independence. The Headship of Christ,—the authority of the bible as our great spiritual statute book, not to be lorded over by any power upon earth,—a deference to our own standards in matters ecclesiastical,—and a submission unqualified and entire to the civil power in all matters civil. These are our principles: and these principles, not personal feelings, we are asked to give up by men who have put forth unhallowed hands upon them. I ask, is there no room for a similar appeal to them? Have they no personal feelings,—no acrimony arising from the anticipation of defeat,—no triumph arising from the anticipation of victory. Have they no mortification of wounded vanity lest their battle cry—'what firmness has done before, firmness may do again,'—lest that battle cry should be rolled back by a resolute and unyielding church on the heads of those who used it." This allusion to the famous words of Mr. Hope's letter to the chancellor, thrilled every breast. The enthusiasm of the house and of the audience knew no bounds: the place where they were assembled shook with the deafening cheers in which they responded to a sentiment that found, save among the handful of moderates, an echo in every heart. The vehemence, however, with which their feelings broke forth, to use one of the many felicitous sayings of the orator himself, was "the vehemence of sentiment and not the vehemence of passion." The allusion carried back their thoughts to the lonely

It is a question, not of feelings, but of principles.

Enthusiasm of the Commission, and of the audience.

CHAP. XII.

moors, or more lonely dungeons, where, a century and a half before, the same battle had been fought,—and where the firmness of the martyr's endurance proved more than a match for both the firmness and the ferocity of the persecutor's power. No one who was present that evening could doubt, that if the spirit of the Sharps and Mackenzies and Lauderdales was not extinct, neither was that of the Guthries, Argyles, and Warristons,—of the Carstairses, Baillies, and M'Kails.

The ancient spirit of the Church survives.

But Dr. Chalmers was not yet done with his exciting theme. A moderate minister had risen while the tempest of strong emotion which the occasion called forth was still at its height, to complain of the cheers, —and of the observations by which they had been evoked. The interruption served only, as all such ill-timed interruptions do, to prolong the tumultuous interlude, and to give to the speaker what he much needed, a little time to breathe. "I was enumerating," he said, when silence was again restored, "what may be the personal feelings of our adversaries, and I have a right to do so. I have a right to state everything that has occurred, whether within or without the limits of this court, that may lead the house to a right decision. I say, is there no inward chagrin among parliamentary friends, mourning over their abortive measures,—is there no sense of offended dignity among the functionaries of the law, lest it should be found that law—no impossible thing in the course of a hundred and fifty years—had for once gone beyond its sphere? I ask which of the rival elements ought to give way? Whether the personal feelings of the

Dr. Chalmers retorts upon Sir Robert Peel.

men who have nothing to lose in this contest, or the personal feelings of men who are ready to risk all for their principles; and who, though many of them are in the winter of life, would,—rather than renounce their principles,—abandon their homes, and brave the prospect of being cast, with their helpless and houseless families, upon the wide world? I ask if it was well in Sir Robert Peel, from his high station, and from his seat of silken security, to deal out his admonitions to the Church of Scotland in this way; and while he spares the patrician feelings of his compeers, to take no account of the principles and feelings of those conscientious men who, humble in station but high in spirit, are ready, like their forefathers of old, to renounce all their enjoyments for the glory and the dignity of the church?"

Ungenerous character of Sir Robert Peel's attack.

It was on this occasion that Dr. Chalmers gave the first public notice of the conviction which late events had been fast ripening in his mind, that if the church was ever to obtain a thorough extrication from her present difficulties, it must be by getting rid of the law of patronage altogether. Alluding to the movement at that moment going on out of doors—to the anti-patronage principles of the "engagement," and of the great St. Cuthbert's meeting,—"So far as I can understand," said he, "the proposal now is, that whereas we have hitherto been thwarted in all our attempts to find a place for the popular will in the *settlement* of ministers, we must now labour with all our might to find a place for it in the *initiative*. In other words, as we were not permitted, in peace and without molestation, to regulate the call, let the

Dr. Chalmers indicates his increasing inclination to support the anti-patronage movement.

CHAP. XII. right of nomination be so regulated as to anticipate the call: and for this purpose let us, in the name of all Scotland,—and I am sure of nineteen-twentieths of her people,—seek, through the medium of the legislature, to modify, and, if less won't do, utterly to abolish, the system of patronage. It is a consummation to which I shall look forward without uneasiness, —nay more, not without the hope of the glorious enlargement of our church,—always provided, however, that the church's spiritual independence is left an intact and inviolable element amidst all these changes. I am no flatterer of the people. With all my respect for the mind and will of an honest congregation, however simple and however poor,—they may go astray in their way just as much as the patron does in his; and if the independent negative of the church be called for as a stay on the corruption of the one, the same check may be required as a corrective on the occasional extravagancies, or follies, or overweening partialities of the other. The time is fast approaching when our (political) constitution will be greatly more popularized; and it is one of the reasons why I plead so strongly at present for the independence of the church, that if we are obliged to give it up now to the patrons, we must give it up then to the people." Dr. Chalmers concluded this memorable speech by saying that, however painful the duty, he felt it to be imperative to give his vote "for serving the proposed libel on the refractory ministers of Strathbogie."

Contemplates the abolition of patronage with satisfaction, rather than with alarm.

He supports the motion to libel the seven ministers.

Dr. Chalmers was followed by the Rev. Mr. Robertson, of Ellon, who spoke against the procurator's motion, chiefly on the ground of its tendency to

aggravate the difficulties of the church. He did not attempt a defence of the Strathbogie ministers, though he made some apologies for them. He was replied to by Mr. Candlish, and the debate soon after drew to a close. Mr. Pringle, of Whytbank, M.P., declared his intention to vote for the libel. "It was manifest," he said, "that the church could not exist at all, if the inferior courts were not to be subordinate to the superior." Upon a division the motion to libel the Strathbogie ministers was affirmed by a majority of 180 to 66,—or very nearly three to one. The committee, appointed under the motion, to prepare the libel, gave it in on the following day, when it was considered and approved, and the usual steps taken to have it served on the offenders. A similar course was followed in regard to Mr. Edwards, the refractory presentee to Marnoch,—who, however, had appeared at the bar in obedience to the citation of the assembly. The measures proper to his case were held to have been decided by that of the seven ministers, and were accordingly gone into without a discussion or a vote.

Mr. Pringle, of Whytbank, M.P., supports the motion to libel the seven ministers.

The next movement in the Strathbogie prosecution was made at the succeeding quarterly commission of assembly, on the 18th of November. The clerk having read the certification that the libel had been duly served, Mr. Patrick Robertson, as counsel for the seven ministers, addressed the house. The sum of the learned gentleman's speech was embodied in the written defences which he put in for his clients. These were ranged under seven heads, with the usual legal prolixity; but the substance of the whole may

The November Commission, and the Strathbogie case again.

CHAP. XII.

Defences given in by their counsel.

be stated in these two sentences—*first*, they denied that the commission had any lawful jurisdiction whatever, as "not being a court established or sanctioned by the laws of the land;" and, *second*, that the sentence of the assembly under which they were libelled having been "suspended as illegal," and all proceedings arising out of that sentence having been "interdicted by the court of session," the sentence was "in itself void," and the libel founded on it was a violation of the law of the land. In other words, the accused became the accusers, stigmatizing as a usurper the court that proposed to try them, and denouncing as a crime the libel to which they were called to plead. These singular defences, whose only merit was their extravagance and effrontery, were of course repelled: and the relevancy of the libel was sustained by a majority of 91 to 15. Mr. Edwards, the rejected presentee to Marnoch, whose case came next in order, as if determined not to be behind his friends in the insolence of his tone, handed in through his counsel, Mr. Inglis, a paper in defence, in which the libel against him was described as "a *pretended* libel at the instance of some person or persons unknown."! The paper, instead of being accepted as part of the defence, was ordered to be kept *in retentis* as a distinct and additional outrage against the authority of the church. The relevancy of the libel against Mr. Edwards was also sustained; and in the case of both libels the proof was appointed to be taken at the commission in March,—so as that the whole matter might be ripened for the decision of the general assembly.

Insolent defences put in for Mr. Edwards, the presentee to Marnoch.

In the meanwhile, a series of proceedings took place

which, while they aggravated immensely the offence of Mr. Edwards and the recusant ministers, brought on a still more direct and formidable collision between the courts of law and the authorities of the church. When the Auchterarder decision was first pronounced, the common reply made to those who complained of it was this,—You are altogether wrong in assuming that it carries in it any interference with the ordination of a minister or with his admission to a cure of souls: it does nothing more than declare that the presbytery acted illegally in refusing to take trial of the qualifications of a presentee. Lord Jeffrey, indeed, had pointed out very distinctly at the time to what that decision must lead. He showed, with all his remarkable perspicuity and force, that in adopting it the court would be entering on a course which, if consistently followed out, would inevitably carry them into the very heart of the church's peculiar domain, and land them in the monstrous position of enforcing, by pains and penalties, the laying on of hands upon those who were to minister in holy things. The general assembly foresaw the same result, and hence the solemnity and the energy with which they protested from the first against the Auchterarder decision. Such anticipations, however, were held to be the mere dream of alarmists, or the trick of a party who wished to overwhelm with odium their antagonists in the discussion. The doctrine of civil supremacy in matters ecclesiastical was then too raw and recent to venture so early upon the full and naked avowal of its pretensions. The time had not yet come for the legal Brennus to throw the sword of the invading secular power into

Style in which the moderate party spoke at first of the Auchterarder decision.

The consequences of that decision foreseen from the beginning by Lord Jeffrey, and by the General Assembly.

CHAP. XII. the balances of the sanctuary. But it came at last; and it came in a case admirably fitted to illustrate an order of things which carried back the ecclesiastical history of Scotland from the nineteenth to the seventeenth century; and which brought up under our good and gracious Queen Victoria, the vivid recollection of the times of Charles II. and James VII. Mr. Edwards, disclaimed by the whole body of the parishioners of Marnoch, and rejected by the solemn sentence of the church, had notwithstanding got himself examined and declared to be qualified, on the 19th of February, 1840, by a body of ministers themselves under a sentence of suspension, and therefore disqualified from performing any ecclesiastical function whatever in connection with the Church of Scotland. This done, Mr. Edwards, first on the 25th of March following, and afterwards successively on the 10th of June, the 19th of August, and the 2d of September, had called on the suspended presbyters to complete the process they had begun, by ordaining and admitting him to the charge. The charge, indeed, might be small; for the sole parishioner who invited him to be his minister was Peter Taylor, the publican of Aberchirder; but then the stipend was considerable and the manse commodious, and ordination was a necessary step towards the acquisition of this goodly benefice. But the seven suspended ministers walked by rule; and the rule as yet carried them no further than they had already gone. The Auchterarder decision was their safe conduct up to the point of taking Mr. Edwards upon trials; but they needed something more to assure them of perfect immunity, in the event

The time had now come for applying the erastian principle of that decision.

Mr. Edwards calls on the suspended ministers to admit him as minister of Marnoch.

of their complying with the additional demand to intrude him into the parish. Not that they had any scruple about the thing itself, if only it could be done without hazard to themselves. Accordingly a very formidable-looking, but in reality most friendly, action was instituted against them by their own protegé in the court of session. In this action, Mr. Edwards craved that, "by decree of the said lords," the presbytery of Strathbogie, including both its suspended and unsuspended ministers, should be decerned and ordained "forthwith to admit and receive the pursuer as minister of the church and parish of Marnoch;" or otherwise, and in the event of their refusing, to pay to him, Mr. John Edwards, "the sum of £8000 sterling in name of damages," and a "further sum of £2000 sterling, in reparation of the injury done to the pursuer's character and usefulness, and to his status in the church of Scotland, and as a *solatium* for the injury done to his feelings." Lest the court of session should imagine, even for a moment, that the seven ministers had abated one jot or tittle of their deference to the civil tribunals, even in such sacred matters as ordination to the office of the holy ministry, they hastened to put in defences, in which they loudly declared themselves "willing to yield obedience to the decrees of this court." Three out of the four judges by whom the case was tried in the first division of the court of session—viz. the Lord President Hope, and Lords Gillies and Mackenzie—had now got so far on in the direction pointed at, three years before, by Lord Jeffrey, as to decide without hesitation that "the decree now asked for was just a corollary from

The suspended seven quite willing to do it, but they must first have a safe-conduct from the Court of Session.

The amicable suit between them and their protegé in the civil court.

Decree granted by the court.

CHAP. XII. their former deed." The summons in the case having an alternative conclusion for damages, the unsuspended ministers came also into court to defend their civil interests; and in doing so they urged that a record should be made up in the usual form, so as to admit of the pleas put in on their behalf being duly considered. Lord Fullerton, the only other judge, was for sustaining that demand. "It was in vain," he said, "to appeal to the case of Auchterarder, which decided nothing whatever as to the power of this court to order the presbytery to receive and admit a presentee. This question was still an open one, and could be decided only when the record was closed; it was not before them at present. The question was just this,—whether, when the question of jurisdiction was *sub-judice,* this court should give a decision in favour of this disputed jurisdiction?" His lordship, however, was left alone in these views, and the court, without touching the question of damages, gave decree in terms of the first conclusion of the summons, ordaining the majority of the presbytery by name,—that is, the seven suspended ministers,—to receive and admit Mr. Edwards as minister of the church and parish of Marnoch.

Lord Fullerton objects to granting decree.

Lord Fullerton overruled by the majority of the court.

This decision called forth an immediate and solemn protest from the most influential presbyteries of the church. The metropolitan presbytery, on the motion of the Rev. Mr. Cunningham, adopted a series of resolutions, which were transmitted to her majesty's government, and in which the decision was declared to involve the exercise of a jurisdiction "inconsistent with the word of God and the standards of the church,"

Meeting of the Presbytery of Edinburgh in reference to this decision.

and to be "an encroachment upon the rights and liberties secured to the church and the people of Scotland by the revolution settlement, the act of security and the treaty of union." In the course of the learned and masterly address by which Mr. Cunningham supported these resolutions, he took occasion to say,—"These men, the seven ministers, applied to Cæsar to restore the powers the church had taken from them, and now they receive orders from Cæsar as to the way and manner in which these powers shall be exercised. * * * This was distinctly enough declared from the bench. One of the judges said,—'it is true that these men have been suspended by the general assembly: but is it not also true,' he added with inimitable simplicity, 'that the court of session suspended that decision *simpliciter.*' It is unquestionable that they did so: and had the decision of the court merely been to the effect of denying civil effect to the spiritual censures of the church, that would have been another matter: it might have been illegal, it might have been unconstitutional; but it would not have been going beyond their province. They might have broken the law, but they would not have been wandering *extra provinciam.* But they first restored these men to their ministerial functions, and now they order them as to the way and manner in which their functions are to be exercised: and it is well known that these men mean to obey. I hope,"—added the speaker in that withering tone which the case demanded,—"I hope when they proceed to induct Mr. Edwards, they will not venture to do it in the name of the Lord Jesus Christ: I hope they will have the courage and honesty to do it in the

CHAP. XII.

Speech of the Rev. W. Cunningham on this subject.

Hopes the seven ministers will ordain Mr. Edwards in the name of the civil power.

CHAP. XII. name of the Lord President of the court of session, or in the name of her majesty, Queen Victoria, according to their oaths of allegiance." It was a fact worthy of notice, that although the moderate party had its representatives in the presbytery in which these sentiments were uttered, not one of them would undertake to vindicate the decision of the court of session. It was with difficulty, indeed, that any of them could be induced to say a word upon the subject. They shrank from a counter-motion, and requested that the resolution might pass without a vote. A few days afterwards, resolutions of the same kind, but much fuller and more elaborate, were adopted in the presbytery of Glasgow. By this time, the decree of the court of session had been obeyed, and the seven suspended ministers had crowned their defiance of their ecclesiastical superiors and their contempt for the laws of the church, by resolving to intrude Mr. Edwards into the parish of Marnoch. It was to this the speaker who proposed these resolutions alluded, when he said, "we have seen for the first time since the revolution, an edict served for the ordination of a minister of the Lord Jesus Christ, not by authority of the courts of the church, but by the authority of the courts of law. We have seen the people of a whole parish retiring from the church in which they were accustomed to worship the God of their fathers, and assembling in the fields, amid the frost and snow of a bleak winter day, to hear the word of God,—rather than remain to see their church profaned by men and by services unparalleled since the times of persecution in this church and country. In a few days more, there will be presented to the country another scene in these

Similar movement in the Presbytery of Glasgow.

The people of Marnoch meet for worship in the fields.

painful proceedings. We shall then see a man ordained, or rather we shall see the office of ordination desecrated at the bidding of a civil court, that that man may get, not a cure of souls, but a title to the stipend. Sir, I do pity the man who has gained this victory. I do pity the man who is now in the attitude of seeking admission into the priest's office in circumstances like these. I judge not his motives. I am not entitled to judge them. But that which is before the face of men,—that which is before the face of the church and before the face of the world, is this,—a man coming forward to a parish against the will of the parish. The patron does not want him, for he has presented another,—the kirk session does not want him, for not one of its members has called him to be minister,—the people do not want him, for not only have they not called him, but by their unanimous voice they have protested against his settlement. What is he to get in the parish of Marnoch? The benefice and nothing more. And I can conceive of no spectacle more melancholy than to see the solemn offices of religion prostituted, as I may well say, in order to enable this person to draw the stipend and to gain a morsel of bread." * * "I shall conclude," said the speaker, "my observations on this subject in the words of a celebrated divine (Gillespie) of our own church, who, writing two centuries ago in reference to circumstances not dissimilar to those in which we are now placed, thus said,—'As the thing is of high concernment to those so much disturbed and divided churches,—so the elevation is yet higher by many degrees. The controversy reacheth up to the heavens, and the top of it is

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Remarks on the proposed intrusion of Mr Edwards.

He may get the benefice of Marnoch, but nothing more.

Quotation from Gillespie on the supremacy of Christ as the Head of the Church

CHAP. XII. above the clouds. It doth highly concern Jesus Christ himself, in His glory, royal prerogative, and kingdom, which He hath and exerciseth as Mediator and Head of the church. This truth,—that Jesus Christ is a King, and hath a kingdom and government in His church, distinct from the kingdoms of this world, and from the civil government,—hath this commendation and character above all other truths, that He Himself suffered for it and sealed it with His blood. For it may be observed from the story of His passion, this was the only point of his accusation which was confessed and avouched by Himself,—was most aggravated, prosecuted and driven home by the Jews,—was prevalent with Pilate as the cause of condemning Him to die, and was mentioned also in the superscription upon His cross. And although in reference to God, and in respect of satisfaction to the divine justice for our sins, His death was *lutron*—a price of redemption—yet in reference to men who did persecute, accuse, and condemn Him, His death was *marturion* —a martyr's testimony to seal such a truth.' It is," continued the speaker, "substantially for this truth the church of Scotland is now called to contend; and whatever dangers or difficulties we may encounter in the performance of this duty, I trust we shall receive grace and strength to go forward without fear, knowing that in such a cause whatever we may suffer, we shall at least be instrumental in glorifying our Lord." It was on this occasion the following vigorous reply to the charge, then often brought against the church, as claiming a power essentially popish, was made by the Rev. Dr. Leishman of Govan:—" They have been

It was for avowing this truth the Saviour suffered death.

Christ Himself a martyr for the doctrine now contended for by the Church.

Speech in the Presbytery of Glasgow, of the Rev. Dr. Leishman, of Govan.

told," said Dr. Leishman, "that the church of Scotland has been actually reviving the claims of popery. A more monstrous charge than this it is difficult almost to imagine. What, let me ask, were the claims of popery? Did popery claim a co-ordinate jurisdiction merely with the civil power,—or a separate jurisdiction from the civil power,—only in matters that were purely and palpably spiritual? Popery claimed an absolute supremacy over all persons and causes whatever: arrogating to herself a right to dispose even of kingdoms and empires at her sovereign will and pleasure: whereas all that the lowly and maligned church of Scotland is at this moment contending for is, that she may not be compelled to confer ordination on those whom she thinks ought not to receive it, or to form the pastoral relation in opposition to the wishes of a reclaiming people. This is the full amount of the preposterous and intolerable demands of the church of Scotland: and for preferring these demands and adhering to them, some of the best and ablest of her ministers have been assailed with sneers and abuse, made the song of the drunkard, and threatened with all kinds of pains and penalties. Were we disposed to follow crimination with recrimination, it might be an easy matter to show, that if the claims of popery have been revived in the present day in the bosom of a protestant church, they have been revived by those who tell us that the court of session is entitled to interfere with the sacred rights of conscience, to obstruct and silence the preaching of the gospel, even when that gospel is proclaimed under

Vindicates the proceedings and principles of the Church.

CHAP. XII.

Condemns the usurpations of the courts of law.

the vaulted roof of heaven,—to snatch from the hands of ministers, elders, and communicants of the church, the emblems of our salvation,—to absolve men from their solemn vows,—and to cast into prison and otherwise punish those who, under the sacred authority of the great Head of the church, and in compliance with the orders of their ecclesiastical superiors, dare to give or to withhold the rite of ordination." Having repelled with similar energy and eloquence the calumnious charge of rebellion, Dr. Leishman said,—"Notwithstanding all our efforts, and contrary to our hopes and most earnest prayers, it may be the will of divine providence that our church shall fall. Some of us may yet live to say—

> ———fuimus Troes, fuit Ilium, et ingens
> Gloria Teucrorum.

But, whatever may be the issue of the eventful contest in which we are engaged, let us endeavour to act in such a way, amidst our present difficulties and embarrassments, as may entitle us to expect a full vindication of our conduct from the impartial testimony of posterity." It was a noble aspiration: happy they who have not befooled it by their own subsequent conduct. Those who have been content to abide in Ilium after the city has become the possession of the Greeks, may well say—*fuimus* Troes. The resolutions were carried, upon a division, by a majority of 50 to 1.

The profession and the practice of this speaker.

While the leading presbyteries of the church were thus promptly and solemnly protesting against the

decree of the court of session, the seven suspended ministers were busily preparing to carry it into execution. On the 4th of January, 1841, they assembled at Keith, resolved to proceed with the induction of Mr. Edwards, and agreed to meet at Marnoch for that purpose on the 21st of the same month. The parish of that name belongs to Banffshire, and lies a short way beyond the northern confines of the county of Aberdeen. Ascending from the Deveron, which bounds it on the south, it stretches up the rising ground till it reaches the hills which on the north bank overhang that very beautiful stream. The manse, or parsonage, nestles in a nook of the valley, with the river on one side, and sheltering eminences on every other. Removed from the old church-yard, which still occupies a sweet and secluded spot in the bottom of the valley, the parish church had, sometime before, been erected on the height above,—as if in preparation for its approaching divorce from all the genial sympathies and time-hallowed associations of the people. The season and the scenery, on the occasion about to be described, were in striking harmony with the events of the day. Nature had put on her most wintry aspect; wrapped in snow, the country looked as cold and cheerless as moderatism itself. Nothing, however, could chill the intensity of feeling which the expected outrage had awakened,—not in Marnoch alone, but throughout the whole country round. Though the roads had for some days been all but completely blocked up, the morning of the 21st beheld dark lines of people struggling in all directions across the whitened fields, and gradually

Meeting of the suspended ministers to intrude Mr. Edwards.

Description of the parish, manse, church, &c., of Marnoch.

It was winter.

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The assembling crowd.

converging upon the parish church. For that day, at least, the lonely looking edifice had the promise of an abundant congregation. Meanwhile, the suspended ministers, the principal actors in the business of the day, had reached the deserted manse. The long vacancy had left everything about it to fall into disrepair,—no one was there to open its doors, or to bid them welcome,—and it was not till the agent of the suspended ministers forced his way through a window, that the party could gain access to the comfortless dwelling. Having arranged their proceedings in this cheerless *rendezvous*, the recusant presbyters, attended by their legal advisers, proceeded to the church. At least 2000 people stood in a dense mass around its still unopened doors,—but the agent of the parishioners made a way without difficulty through the midst of them, for the emissaries of the court of session. The lower part of the church having been reserved for the people of Marnoch, the galleries were instantly filled by strangers from the surrounding parishes: hundreds of both these classes of persons being compelled, for want of room, to remain without.

The rendezvous of the intruders at the desolate manse,—they adjourn to the church.

Mr. Thomson, suspended minister of Keith, presides.

Mr. Thomson, the suspended minister of Keith, officiated as moderator of the court of session presbytery, and constituted the meeting by prayer. This was no sooner done, than Mr. Murray, one of the elders of the congregation, rose, and the following scene, as instructive as it was painful, occurred:—

Mr. MURRAY, addressing Mr. THOMSON.—"I wish to ask you by whose authority you have met here?"

Mr. THOMSON.—"By the authority of the national church, and in the name of the Lord Jesus Christ."

Mr. MURRAY.—"Have you any proof to show that you meet here by the authority of the national church?" CHAP. XII.

Mr. THOMSON.—"The meeting must be first constituted, by the clerk reading the minutes, and we shall then answer your question."

Mr. Cruickshank, the suspended minister of Mortlach, read accordingly, first, the minutes of the meeting of the 4th instant, at Keith, appointing the induction to take place,—and next, the minutes of the meeting held in the deserted manse immediately before coming up to the church. From the latter it appeared, that two of the seven ministers were absent, viz., Messrs. Allardyce, of Rhynie, and Cruickshank, of Glass,—from both of whom, however, letters were produced explaining the causes of their unavoidable absence, and approving of the purpose for which their brethren were now assembled. Besides Mr. Thomson the moderator, and Mr. Cruickshank the clerk, already named, there were present, Messrs. Walker, of Huntly; Cowie, of Cairnie; and Masson, of Botriphnie. The minutes further stated, that the presbytery having adjourned from the manse to the church, Mr. John Edwards, presentee to the parish of Marnoch, had appeared, and was now at their bar, with Mr. John Inglis, advocate, as his counsel. The reading of the minutes having been concluded, and after much anxious whispering among the suspended ministers, who occupied one of the square seats near the pulpit, Mr. Thomson again stood up, and in the capacity of moderator inquired, if there were any other

The clerk of the pretended Presbytery reads the minutes.

Mr. Thomson, moderator, asks if there are any parties present who wish to appear in this case.

CHAP. XII. individuals who wished to appear before the presbytery as parties in this case. This inquiry brought up immediately their former questioner, Mr. Murray, and the interrupted dialogue was resumed.

Mr. Murray the elder, insists that the suspended ministers shall produce their warrant for these proceedings.

Mr. MURRAY, addressing himself to the suspended ministers.—"Come you here by the authority of the general assembly? I ask you *that* before answering your question,—as a member of the church of Scotland, and as an elder in the parish of Marnoch."

Mr. THOMSON.—"We will give any information to the parties at the bar, but not to any other. Do you intend to sist yourself as a party at the bar?"

The suspended ministers knew well, that if they could only succeed in getting their judicial character recognized by the people, an air of authority would at once be imparted to their rebellious proceedings, and an important advantage in favour of their position gained. But the intelligent presbyterians of Marnoch were too well acquainted with the constitution of their church, and the business of its courts, to be drawn into the snare. And accordingly, to Mr. Thomson's question—"Did they intend to sist themselves as parties at the bar?" Mr. Murray promptly replied—"No, sir,—but at any rate I should first require to know, upon what authority you are here in this church?"

The seven attempt to induce the people to sist themselves as parties,—but they refuse

Mr. Peterkin, a solicitor from Edinburgh and agent of the suspended ministers, here interposed to say—"It is utterly impossible that any person can be heard who does not appear at the bar, and is not entered on the minutes as a party here." Upon this, Mr. Duncan, writer, from Aberdeen, and agent for the

elders and communicants of the parish, came forward: and the colloquy grew more exciting, and to the *soi-disant* presbytery, more embarrassing still.

The agent of the parishioners repeats the call for the authority by which the seven act.

Mr. DUNCAN.—"I put again the question which has been, as yet, refused an answer. I assure you, no party of the parishioners of Marnoch will appear at your bar, until that question is answered, and I do not see how you can deny our right of questioning you first as to your own authority?"

Mr. MASSON, of Botriphnie.—"You have no right at all. We will allow no claim put forward in that manner."

Mr. DUNCAN.—"As an elder of the parish, Mr. Murray asks a question. He believes that *you* have no right to be present here at all. Now, answer me,—for what purpose are you here, and by whose authority do you come? We can't appear at your bar till we are convinced of your authority."

Mr. THOMSON.—"Although we do not admit the right of any party to question us or our authority here, yet I have no objection to say, that we are here as the presbytery of Strathbogie,—a part of the national church assembled in the name of our Lord Jesus Christ." (Great sensation among the audience.)

Mr. Thomson at length replies: the sensation produced.

Mr. DUNCAN.—"Do you appear here by the authority of the general assembly, or against its authority?" (Great cheers.)

(After a long pause,—and no answer being returned,)

Mr. DUNCAN.—"I must apply to you again for an answer to my question, and I beseech you to answer it as friends of the church, and as friends of the people of Marnoch, which you say that you are."

CHAP. XII. Mr. THOMSON.—"We are met here as the presbytery of Strathbogie, and under the protection of the law of the land."

* * * * * *

Mr. DUNCAN.—"Do you give me no reply to my question?"

Mr. THOMSON.—"No, no."

The seven insist on the agent for the people producing his mandate.

Mr. CRUICKSHANK.—"Will you deliver your mandate."

Mr. DUNCAN.—"I wish first to have an answer."

The suspended ministers now becoming clamorous for Mr. Duncan's mandate, he turned round to the parishioners of Marnoch, who thronged the entire area of the church, and addressing them, said—"I ask you, the heads of families and people of Marnoch, assembled here, have I this day authority to appear for you and to speak for you." Every voice answered in the affirmative; and again turning towards Mr. Thomson and his coadjutors, he said—"You have heard my mandate. Have you ever had such a mandate produced before you as that?" In addition to these *viva voce* credentials, Mr. Duncan further produced a written document in the usual form; but the intrusionists held their peace. To tell by what authority they did these things was as inconvenient for them as it was for the chief priests in the temple of old to answer a somewhat similar question to our Lord. Having pressed them upon the point far enough to make a thorough exposure of their pitiable position, Mr. Duncan read in their hearing the following notarial protest:—"Gentlemen,—We, the subscribers, elders and others, who have signed for ourselves, and as

The people rise up and give it *viva voce*.

The written mandate.

representing the other parishioners of Marnoch, opposed to the settlement of Mr. Edwards as minister of that parish, do represent to you that it is with extreme pain and disappointment that your present position, as suspended ministers of the church of Scotland, precludes us from appearing before you to lodge and prove the objections which have been preferred, and are ready to be substantiated, before any competent church court. These objections we solemnly declare to be such, affecting as they do the qualifications, life, and doctrine of Mr. Edwards, as in our opinion to cause his deposition, even if he were an ordained minister; and to preclude him from admission in his character of a licentiate claiming admission as presentee to any parish, but much more in reference to our parish. We are earnestly desirous, and have been long desirous, of having an opportunity afforded to the objectors to prove them; and if you and Mr. Edwards can suggest any method or tribunal where these can be discussed in a constitutional way, and where he and the objectors shall mutually stand to the result, it will then be seen whether the parishioners have not had well-founded grounds of opposition to him. We earnestly beg you to consider the above, and to avoid the desecration of the ordinance of ordination under the circumstances; but if you shall disregard this representation, we do solemnly, and as in the presence of the great and only Head of the church, the Lord Jesus Christ, repudiate and disown the pretended ordination of Mr. Edwards, and his pretended settlement as minister of Marnoch: we deliberately declare, that if such proceedings could

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The people in their mandate affirm that they are prepared to lodge and prove, before a competent court, special objections against Mr. Edwards.

CHAP. XII. have any effect, they must involve the most heinous guilt and fearful responsibility, in reference to the dishonour done to religion and the cruel injury to the spiritual interests of a united christian congregation." Another protest, read also by Mr. Duncan, embodied in it a review of the case from the beginning, and stated with great ability and precision the true character of that whole course of proceedings which was now about to be consummated. This protest was signed by 450 communicants, besides the elders.

The protest of the people signed by the elders and by 450 communicants.

Having concluded the reading of these papers, Mr. Duncan said—"As agent for the elders, male heads of families, and communicants of Marnoch, I have only to say that they take no further part in these unconstitutional proceedings. They wait for a better time and another court. They can have no further business here; and they will, I believe, all now accompany me from the church, and leave you to force a minister on the parish against the people's will, but with scarcely one of the parishioners to witness the deed." The scene that followed was truly touching and impressive. In a body the parishioners rose, and gathering up the bibles which they had been wont to leave from Sabbath to Sabbath in the pews, they silently retired. The deep emotion that prevailed among them was visible in the tears which might be seen trickling down many an old man's cheek; and in the flush, more of sorrow than of anger, that reddened many a younger man's brow. "We never witnessed," said an onlooker, "a scene bearing the slightest resemblance to this protest of the people, or approaching in the slightest degree to

The agent intimates that the people will take nothing more to do with these proceedings.

They retire in a body.

the moral beauty of their withdrawal; for, stern though its features were, they were also sublime. No word of disrespect or reproach escaped them. They went away in a strong conviction that their cause was with the Most Powerful, and that with Him rested the redress of all their wrongs. Even the callous-hearted people that sat in the pew, the only pew representing *intrusionism* and forced settlements, were moved,—they were awed,—and the hearts of some among them appeared to give way. Will they all leave? we heard some of them whispering. *Yes; they all left, never to return,* until the temple is purified again, and the buyers and sellers,—the traffickers in religion,—are driven from the house of God. THEY ALL LEFT." *

The solemnity of this scene, as described by an eye-witness.

Descending from the hill on which their parish church stood—a church on whose walls "Ichabod" was now legibly written—they assembled in a little hollow in the valley beneath, and there, amid the winter's snow, the deeply-injured congregation took council together as to their future course. Scotland was destined ere long to see many more outed congregations than that of Marnoch; for the same causes that banished them from the walls of their parish sanctuary, were fast paving the way for the disruption of the national church itself. Nothing that happened on the eventful day of the Marnoch intrusion was more remarkable than the resolution which, immediately after leaving the church, the people unanimously adopted, of retiring at once to

The people meet in a field amid the snow.

* Extracted from the Aberdeen Banner—whose then editor, Mr. Troup, was present at Marnoch throughout the entire day. His graphic and eloquent report of the proceedings was circulated over the whole kingdom.

CHAP. XII.

They return quietly to their own homes.

their homes. There was a self-denial in this resolution as severe as it was honourable. Strong as the temptation was to return and watch the progress of events at the church, they would not have it said either that a parishioner of Marnoch had countenanced by his presence that disgraceful settlement, or that they had suffered themselves to be hurried, by the excitement of the scenes or by the sense of wrong, into any expression of their feelings that would have tarnished the purity and lowered the sacredness of their cause.

The area of the Church, vacated by the parishioners is now filled by a crowd of strangers.

When the parishioners of Marnoch left the church, their places were filled on the instant with the crowd of strangers who, up till that time, had not been able to gain admittance. However much to be lamented, it is in no degree to be wondered at, that the order previously preserved should no longer have been maintained. The unhappy intrusionist ministers were pelted with snow-balls and other disagreeable though not very deadly missiles, while shouts, and groans, and hisses assailed them. Mr. Thomson attempted to make his way to the pulpit to begin those services of praise and prayer, and preaching of the word usual on such occasions; but the passage and pulpit-stairs were thronged with people, and the attempt was vain. It is not surprising that the audience should have recoiled from the spectacle of the solemnities of divine worship employed for such a use, and should have shown a disposition to hinder rather than to help the individual who was about to conduct them. The

The scenes that followed a scandal to religion.

whole scene was a scandal to religion; but the impartial reader will judge to whom the responsibility

of causing that scandal chiefly belonged,—whether to the handful of young and thoughtless persons scattered through an excited multitude, who were the immediate authors of the confusion, or to those whose extraordinary and outrageous proceedings had drawn that multitude together, and given so much occasion for the disturbance which arose. Those who would throw all the blame upon the people would do well to recollect that, on a more recent occasion, and one in which the audience had much less cause of complaint, neither the sanctities of consecration nor the presence of lawn-sleeved prelates could restrain, in the metropolis itself, the outburst of feeling which rang through the aisles of Bow church and startled Cheapside, when Dr. Hampden cleared his way to the see of Hereford, by the help of the royal supremacy and at the expense of making a mockery of the rights of the church.

The blame rests on those who caused this outbreak of popular feeling.

The case of Bishop Hampden and Bow Church.

Just about the time when order had been restored in the church of Marnoch,—chiefly through the intervention of a non-intrusionist,—one of the county magistrates, Mr. Stronach of Ardnellie, rode up rapidly to the church, and making his way into it, explained that he had been sent for to quell a riot; but, looking around him on the people, he added that he saw no riot to quell.

A magistrate rides up to the Church of Marnoch to quell the alleged riot, but finds none to quell.

The Rev. Mr. WALKER of Huntly—"We have been insulted, sir, in the discharge of our duty, and we claim your protection as a magistrate."

Mr. STRONACH—"As a magistrate, I am bound to act, and will act if I see occasion. I wish to remark

CHAP. XII. that I do not see a single Marnoch parishioner in this meeting."

The magistrate, a son of the late minister.

Mr. Stronach, as the son of the late minister of the parish, and as having resided all his life among the people, knew them well. An intrusionist parishioner having, however, declared that the "Marnoch people were as bad as any," Mr. Stronach, addressing him, said—"Will you, then, who must know them, name them? Name one who has acted wrong." The individual thus addressed proceeded accordingly to point out a young man in the gallery as having joined in the disturbance.

Mr. STRONACH—"Why are you here, sir? I thought that with the other Marnoch people you had gone away; and I trust you have not disgraced yourself by taking part in unseemly proceedings."

The person thus singled out assured Mr. Stronach that he was there simply because he could not get out, and that he was guiltless of any share in the disturbance.

Tells the only Marnoch man remaining in the Church to leave it.

Mr. STRONACH—"Will you go away now? and if you will, I shall have a passage cleared for you?"

This was done, and the Marnoch parishioner at once withdrew. "Now, sir," continued Mr. Stronach, again addressing the individual by whom the young man had been pointed out, "you said there were several Marnoch people. Have you more to name?" "No, sir," was the reply.

Mr. Stronach then intimated to the suspended ministers that, however unpleasant it was for him to interfere in this matter, he was there as a magistrate,

and they might rely on his protection; and, addressing the moderator, he added—"Mr. Thomson, there is now perfect quiet; so you had better proceed, and be as short and concise as you possibly can." After a short psalm and a hurried prayer, Mr. Thomson gave out as his text—"Let a man so account of us, as of the ministers of Christ, and stewards of the mysteries of God. Moreover it is required in stewards that a man be found faithful." Solemn and striking words! How would the inspired and devoted man who wrote them have started to hear them repeated in such circumstances and in such a scene! The sermon over, the ordination service followed; and preparatory to it, the putting to Mr. Edwards of those questions which embody the ordination vows. Without their introduction here, the account of this memorable scene would be altogether incomplete. Let the reader picture to himself the presentee standing up in the face of the assembled people, while, one after another, the following questions are addressed to him from the pulpit:—

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The magistrate advises Mr. Thomson to proceed now, and to be brief. The text, &c.

"1. Do you believe the scriptures of the old and new testament to be the word of God and the only rule of faith and manners?

The ordination vows.

"2. Do you sincerely own and believe the whole doctrine contained in the Confession of Faith, approven by the general assembly of this church, and ratified by law in the year 1690, to be founded on the word of God, and to acknowledge the same as the confession of your faith, and will you firmly and constantly adhere thereto and to the utmost of your power, assert, maintain and defend the same and the purity of worship

CHAP. XII. as presently practised in this national church, and asserted in act 15. assembly 1707?

"3. Do you disown all popish, arian, socinian, and other doctrines, tenets, and opinions whatsoever, contrary to, and inconsistent with the foresaid confession of faith?

"4. Are you persuaded that the presbyterian government and discipline of this church are founded upon the word of God and agreeable thereto; and do you promise to submit to the said government and discipline and to concur with the same, and never endeavour, directly or indirectly, the prejudice or subversion thereof, but to the utmost of your power, in your station to maintain, support, and defend the said discipline and presbyterian government by kirk sessions, presbyteries, provincial synods and general assemblies, during all the days of your life?

The ordination vows.

"5. Do you promise to submit yourself willingly and humbly, in the spirit of meekness, unto the admonitions of the brethren of this presbytery, and to be subject to them and to all other presbyteries and superior judicatories of this church, where God in his providence shall cast your lot: and that, according to your power, you shall maintain the unity and peace of this church against error and schism, notwithstanding of whatsoever trouble and persecution may arise—and that you shall follow no divisive courses from the present established doctrine, worship, discipline, and government of this church?

"6. Are not zeal for the honour of God, love to Jesus Christ, and desire of saving souls, your great motives

and chief inducements to enter into the function of the holy ministry, and not worldly designs and interests?

"7. Have you used any undue methods, either by yourself or others, in procuring this call?

"8. Do you engage in the strength and grace of Jesus Christ our Lord and master, to rule well your own family, to live a holy and circumspect life, and faithfully, diligently, and cheerfully, to discharge all the parts of the ministerial work to the edification of the body of Christ?

"9. Do you accept and close with the call to be pastor of this parish, and promise through grace, to perform all the duties of a faithful minister of the gospel among this people?"

Extraordinary circumstances in which these vows were laid on Mr. Edwards.

Never in the history of the church of Scotland had these pregnant and conscience-searching questions been either put or answered in such circumstances before. A body of men suspended from all their ecclesiastical functions by a sentence of the supreme court of the church, were taking it upon them to impose upon an individual who was a sharer in their contumacy and a partaker in their rebellion, those very vows which, in the deliberate judgment of the church, they had themselves already broken, and were again at that moment trampling under foot. They were asking assent to a confession which declares that "the civil magistrate may not assume to himself the power of the keys"—while they were in the very act of using "the keys" in defiance of the church, and by authority and commission from the civil power alone. They were taking an individual bound "to submit himself" to the judicatories of the church, by a deed which was

The *fact* at every step was a contradiction of the *word*.

CHAP XII. itself the grossest outrage upon the authority of these judicatories. They were inviting him to say that zeal for the honour of God, love to Christ, and desire of saving souls were his great motives and chief inducements to enter into the function of the ministry,—though he was entering into it in spite of the prohibition of the church, and the remonstrances of the people. They were proceeding to form the pastoral tie and to invest him with the cure of souls, on the footing of his "accepting and closing with" a call which he had never received,—a call which the parishioners had not only never given him but which they had refused to give, on the ground that he had neither gifts nor graces to edify their souls. Eight of the nine questions require an answer in the affirmative, —and that answer is usually given by a simple inclination of the head. Most men's hearts at such a moment are, or ought to be, too full of a sense of their own insufficiency for these things—to admit of any other or less humble mode of signifying their assent. It seems, however, that no such distrust oppressed the presentee to Marnoch,—and that, when the more solemn questions were repeated, the word "yes" rung through the church as the prompt and unhesitating reply. There is one question, the 7th in the series, which to be answered suitably, must be met with a "no." Had he used any undue methods by himself or others to procure the call? "He replied," says the narrator of the story, who himself was present,—"audibly in the negative. Need we say that a deep shudder ran through the whole assembly at this whole exhibition. * * * After the accustomed forms had been pro-

The contradiction illustrated.

Mr. Edwards' mode of answering the solemn questions put to him.

ceeded with, the imposition of hands was gone over, and once more the same suppressed and painful murmuring ran through the meeting. Men held their breath in awe, and turned from the horrid sickening scene within, to the cold damp scene without the church, where, however uncomfortable, there was no sacrilege."

The audience shudder at the spectacle.

Few scenes are more interesting or pleasing than that which is ordinarily exhibited at the close of the religious services which accompany a minister's settlement in Scotland. The young pastor, attended by two or three of the senior members of the presbytery, takes his station at the church door immediately after the blessing is pronounced, and as the congregation retire, old and young may be seen crowding around, to give him the right hand of welcome, and to assure him that their hearts as well as their doors are open to receive him. But no such reception awaited the unhappy presentee to Marnoch. No man said, "God bless him:" there was none so poor as to do him reverence. "We have seen," says the eye witness who wrote his account of these events a few days after they occurred, "a young minister ordained and welcomed by a religious people, with sincere and earnest prayers for his success, but until Thursday last, we never saw a minister ordained who had no single parishioner, no human being of his charge, to bid him God-speed, and pray for his well-being. So it was, however, with pitiable Mr. Edwards." The tale of the Marnoch intrusion was told from one end of Scotland to the other. The conduct of the parishioners awakened everywhere a sympathy which

No welcome at the Church door for Mr. Edwards.

The story of the Marnoch intrusion circulated all over Scotland.

CHAP. XII.

Fruits of the public sympathy: a Church built for the people, and a Manse for their minister.

expressed itself, not in words only, but in substantial deeds. As the traveller now approaches the village of Marnoch he finds a large and handsome church, with its stately tower, and immediately adjoining it a handsome and commodious parsonage. These were the fruits and are now the memorials of that cordial interest and esteem which the story of their wrongs and of their forbearance called forth towards the people of Marnoch. The parish church still stands on the hill, but the parish families have ceased to go up to it ever since that wintry day when it ceased to be occupied by a minister of the church of Scotland, and passed into the hands of a ministry provided for it by the court of session. The national church, whose principles and whose honour they so nobly upheld in 1841, was in 1843 disestablished like themselves,—and they and their minister, have now for six years formed part and parcel of the Free church of Scotland.

A few sentences may now suffice to carry this case forward to the general assembly, where at length, in so far as the church was concerned, it received its final decision. At the commission of assembly which met at Edinburgh, on the 3d of March, evidence was led of the facts charged against Mr. Edwards, and the libel was found proven. A paper, indeed, was handed in by his agent admitting the truth of the facts libelled, but the paper not being signed by Mr. Edwards, and he not being personally present, the commission could not accept it, and took evidence accordingly in the usual form. A similar paper was also handed in by the agent of the Strathbogie ministers, which for the

Proceedings of the Commission of March, 1841, in reference to the Strathbogie case.

same reasons was also refused. As the proof in their case could not be taken without great expense in Edinburgh, a motion was made to hold a special meeting of the commission for that purpose in Strathbogie itself. At this proposition the friends of the Strathbogie ministers were greatly alarmed. Dr. Bryce assured the commission these ministers "would come to Edinburgh, and if one motive could lead them to do so more than another, it would be the single circumstance that they would much rather come up here than have the visit of the commission in their parishes." The snows of their own Ben-a-chie could no more stand the dog-days, than moderatism could endure such a wholesale visitation of fervid non-intrusionists. To abate the alarm which the proposition had produced, and at the same time to make sure of having the case matured for the assembly, it was resolved that the commission should meet again at Edinburgh, on the 17th of the same month,—to receive from the seven ministers their own personal admission of the facts charged against them: and in the event of that admission not being then obtained, that the commission should adjourn to meet at Huntly, on the 21st of April. On the 17th of March, the requisite admission was obtained, signed by the seven ministers and duly attested. They were not entitled, indeed, to disregard the citation of the commission, and to substitute a written document for their own personal compearance,—but the document was accepted notwithstanding. The whole case was now, therefore, at length, matured for the judgment of the general assembly.

CHAP. XII.

The Commission threaten to meet in Strathbogie, and the consequent alarm of Dr. Bryce.

The proof of the libel against the seven ministers completed, and the case prepared for the Assembly.

CHAP. XIII.

THE ASSEMBLY AND THE YEAR 1841.

CHAP. XIII. WHILE the progress of events was every day widening the breach between the two parties in the church, and rendering the interposition of parliament more urgently necessary, neither whig nor conservative statesmen had been making the smallest effort, or showing the slightest disposition, to provide a legislative remedy for evils which menaced the very existence of one of the most important institutions in the land. Early in the session, Lord Melbourne had intimated that his government had no intention of introducing any measure in reference to the question of the Scottish church. The want of parliamentary strength, which had deterred them from meddling with the subject the year before, no doubt operated still more forcibly now, when the indications were daily increasing, that they must soon surrender their places and power into the hands of their political opponents. That these opponents were not becoming more friendly to the church, or its cause, seemed only too certain, from an incident which occurred not very long after that session of parliament began. Agreeably to a recommendation made some time before by a royal commission which had been appointed to visit and report on the Scottish universities, the government had resolved to found a chair of biblical criticism in the university of Edinburgh, and to endow it out of the revenues of a sinecure office,—that of dean of the chapel royal. There are

The continued supineness of government in regard to this question.

Unabated hostility of Lord Aberdeen illustrated.

three such deaneries in Scotland, relics of the episcopal establishment,—and which were understood to be usually conferred on clergymen whose seniority and standing entitled them to some mark of distinction,—though, in truth, they had been, for the most part hitherto, the rewards of political subserviency. The individual selected for the intended chair was the Rev. Mr. Candlish,—than whom it would perhaps have been difficult to find within the church any one likely to have given more *eclat* to the new office, or to have reflected greater honour, either on the government which created it, or on the university for which it was designed. All the preliminary steps usual in such cases had been already taken, and the appointment, though not formally concluded, was understood to have been finally agreed upon, when Lord Aberdeen succeeded in quashing it, by a violent attack in the house of lords. Mr. Candlish, about a fortnight before, had broken an interdict of the court of session, by preaching the gospel, and dispensing divine ordinances, under the authority of the general assembly, within the forbidden territory of one of the Strathbogie parishes. In doing so he had only been following in the footsteps of Dr. Chalmers, Dr. Gordon, Dr. Makellar, and of almost every other leading minister in the church. The outrage which the interdict involved upon the first principles of religious liberty, was so gross and intolerable, that pains were taken from the very first, to show that the church neither could, nor would give place to it. Her gravest and most godly fathers were sent to resist it, on purpose to show that the breaking of the interdict was not to be regarded as the rash and reckless

The Rev. Mr. Candlish nominated by Government to the professorship of biblical criticism.

Mr. Candlish had broken the Strathbogie interdict a fortnight before.

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act of impetuous youth, or headlong partizanship,—but as the deliberate discharge of a high and sacred duty. And so thoroughly did the common sense and right feeling of the community condemn the obnoxious interdict, that those who applied for and obtained it, had not the hardihood to attempt to enforce it in any one single case. When Mr. Candlish preached in Huntly, the interdict had been in existence for a whole year, and in the course of that entire period it had been systematically set at nought: and keeping this in mind, the reader will know how to appreciate the language in which his conduct was denounced by the Earl of Aberdeen. Having called the attention of the house of lords to the new professorship, "the gentleman," his lordship went on to say, "who gained the appointment had very recently, within these few days, a fortnight or less, committed a most flagrant violation of the law, in his own person: and it would almost appear that he had received this preferment as a reward for his contumacy." His lordship explained that the interdict which Mr. Candlish had broken, by preaching in Huntly, was served upon him by the suspended minister of the parish, the Rev. Mr. Walker—who "he understood, was prepared to follow up his claim by petition and complaint to the court,—which was the regular course." Did his lordship contemplate with alarm or pain the result which in that case must ensue,—the spectacle of a christian minister dragged from his flock and his family, and cast like a felon into the common jail? Granting that Lord Aberdeen's sense of what was due to the authority of the civil

Lord Aberdeen attacks the appointment on this ground.

The spirit in which his lordship's attack was made.

tribunals might not allow him to admit the lawfulness of, in any case whatever, disregarding their decrees,—that his notions of duty went the full length of what Neander describes as the doctrine of the Roman empire, that "the state is the highest ethics"—it could not be denied that for the offence which Mr. Candlish had committed he could at least point to many illustrious precedents,—and could plead in palliation of it, considerations not unfitted to tell upon a generous mind. Such considerations, however, seemed to have no weight with Lord Aberdeen. His lordship made himself, and his aristocratic audience, merry with the pleasant prospects of Mr. Candlish. Few read at the time, or will read now, without pain and regret, the words which the public journals ascribe to his lordship. The laughter which they were represented as producing among his hearers, could be only that mirth into which men are sometimes involuntarily betrayed, and of which, the instant afterwards, they feel heartily ashamed. "This reverend gentleman," said Lord Aberdeen, doubtless with his coldest and most cutting sneer, "this professor of biblical criticism, if dealt with by the court in the same way as any other person, would be immediately sent to prison, where he would have leisure to compose his first syllabus of lectures!"

The circumstances of the case might have conciliated a generous mind.

His lordship makes himself and his audience merry with the idea of Mr. Candlish writing his lectures in a jail.

His lordship gained his end. Lord Normanby, the home secretary, said, indeed, that "the information which he had received, with respect to the merits of Mr. Candlish, was very different from that which had been supplied to the noble earl;" but added, that on hearing that "he had placed himself in opposition to

Lord Normanby gives way and withdraws the appointment.

CHAP. XIII. the law, they at once put an end to all communication with him upon the subject." His lordship could hardly have been ignorant of the fact, that if Mr. Candlish, by simply preaching the gospel in Strathbogie, had placed himself in opposition to the law—he had done so by order of the general assembly of the church of Scotland. In these circumstances it would certainly have been more magnanimous, and more worthy of the secretary of state, to have grappled with the assembly itself,—and instead of indulging a political opponent, by punishing an individual, to have discharged his own duty as the representative and guardian of the civil power, by punishing the real offender, the supreme court of the church.

The affair not creditable to the Secretary of State.

"What is this breach of the law," said the London Record, commenting at the time on these proceedings in the house of lords, "of which the Rev. Mr. Candlish is accused? Our readers are aware that the court of session maintain, in the exercise of all the duties of the sacred ministry, men who are suspended from all those duties by the church which conferred them, and which church is invested by law with the supreme power, in spiritual things, within the realm of Scotland. They are aware, that by the arm of the civil law, they maintain these *deposed* men in the pulpits, and in the use of all the appendages of the parishes. A gross infringement as the church considers this on her constitutional privileges, and a criminal mockery of sacred things, she can offer no physical resistance to the mailed arm of the civil power. But protesting against the desecration of sacred things thus perpetrated by her contumacious sons and an encroach-

Remarks of the London Record on this business.

ing civil court, 'necessity is laid upon her' to provide for the spiritual wants of the people, by men *in possession* of the ministerial office, and who, accordingly, can administer the sacraments and other ordinances of the sanctuary without a sacrilegious desecration of holy things. The crime of which the Rev. Mr. Candlish has been guilty, as dwelt upon at such length by Lord Aberdeen, is that of performing this necessary service under the directions of his church. And where is the churchman, by whatever name he may be called, who does not see in this simple statement of the case, a triumphant vindication of this maligned but faithful servant of God. We pity Lord Aberdeen." Such was the view taken of Lord Aberdeen's part in this affair, by a journal decidedly favourable to that political party to which his lordship belonged. A few sentences from a paper whose opinions on almost all questions, both political and ecclesiastical, were opposed to those of the Record,—a paper keenly opposed to church establishments in general, and to the reforming church of Scotland in particular, and a cordial supporter of liberal politics—may suffice to show in what light impartial observers regarded the conduct of the government. "Anything more discreditable," wrote the Scottish Pilot, "and unseemly, from beginning to end, has not been perpetrated under ministerial sanction for a long time past. It is very good on Lord Normanby's part to say, the rebellious disposition of Mr. Candlish unfitted him for the office; but why delay to say so till the eleventh hour? Mr. Candlish was as much a rebel last August as he is to-day. Yet Lords Melbourne and Normanby confess, that

The Record vindicates Mr. Candlish and condemns Lord Aberdeen.

Remarks of the Scottish Pilot on the same subject.

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The Scottish Pilot exposes the transaction as most discreditable to the government.

till within a few days ago, they corresponded with Mr. Candlish in reference to his appointment. What is this but a confession that their lord advocate has been negociating, in their name, a bargain which, at the expense of their pledged word, they cancelled under dread of popular clamour, or through fear of Lord Aberdeen!"

But among the other commentators on this pitiable affair, we must not omit to hear Mr. Candlish himself. In a letter which, a few days after its occurrence, he addressed to the Marquis of Normanby, he said—"Your lordship had resolved to confer on me the office of professor of biblical criticism in the university of Edinburgh,—an office for which the partiality of my friends deemed me well qualified,—and for which they, not I, made application on my behalf. Your lordship's resolution became public, but not through me. I took no step until I received notice from the agents of the church in London, to the effect that a communication had been made to them from the Home-office. It had been intimated to them that my appointment to the deanery, which was to be conferred along with the professorship, had actually taken place,—and that it was necessary merely to have it extracted in due form. I am ignorant of the usual practice in such cases, and I may have erred in concluding prematurely that the matter was definitely fixed. At the same time, I am given to understand that, had the agents for the church, instead of corresponding with me, proceeded at once to act upon the message from the Home-office, the deed might have been beyond recall; and at all events, assuming that

Mr. Candlish's letter on the subject to Lord Normanby.

Shows that the appointment had been actually made.

government may have the right to cancel a nomination at the last hour, I cannot but feel some surprise to hear it stated, not only that the appointment in my favour has been suspended and superseded, but that it never was made." After alluding to the attempts Lord Aberdeen had made to create a prejudice against him, "by putting into his mouth language regarding the decrees of the court of session which he never uttered,"—and after stating, in opposition to the contrary assertions which Lord Aberdeen had ventured to make, that this was "the only occasion on which he had ever been called to act in disregard of a decree" of the civil court, he proceeded to explain the interdict, and to state explicitly that the one he had broken was in every particular the same with that which had been systematically violated by ministers without number for a whole twelvemonth before. But was the violation of that interdict a breach of the law? "I must remind your lordship," said Mr. Candlish, "that the legality or competency of such an interdict is expressly denied by the church, and that this indeed is the very point at issue in the constitutional question now pending between the ecclesiastical and the civil courts of this country. That question has never yet come under the review of the house of lords, and your lordship, I presume, has no wish to prejudge it. In assuming, however, and summarily concluding, that a breach of the interdict is necessarily a breach of the law, your lordship is virtually doing so." The suspended ministers got credit from Lord Aberdeen for forbearing, or at least he took credit to himself, for having persuaded them to forbear, from following up

Corrects the statement of Lord Aberdeen.

Reminds Lord Normanby that the legality of the interdict was the very point in dispute.

CHAP. XIII. the breach of interdict with a complaint to the court against the offenders. Forbearance! It was the very essence of cunning and cruelty combined. Availing themselves of their monstrous interdict, to brand as breakers of the law those who treated it as Peter and James treated the precisely similar interdict of the Jewish sanhedrim,—they at the same time, by failing to enforce it, deprived those, whom they had thus accused and injured, of all opportunity of meeting them in the courts of law, and of putting the legality of their interdict to the test. "My lord," said Mr. Candlish solemnly, as his letter drew towards a close, "I humbly entreat your lordship to pause ere you finally commit yourself on this momentous question. I ask this, not for my own sake, but for my country's. For myself it is of little consequence whether I preach the gospel in Huntly, or prepare lectures in Calton jail. But your lordship may rest assured that there is a principle in this question, and a power, sufficient to stir the country to its utmost depths. It is a vain imagination, my lord, of shallow and short-sighted men, to regard the question as one which may be carelessly cast aside, or settled summarily by an off-hand phrase about the law. It must arouse the attention of statesmen: it may be when it is too late. It is no question of mushroom growth, my lord. There is the strength of centuries in its pith and marrow, and in its veins the life-blood of a nation, of old accustomed to fear God and to honour the king. Vain men may think to stifle and smother the fire which has been kindled,—and knowing little themselves of any principle more stern than the expediency of earthly politics, unskilled

It was no forbearance, but mere cunning and cruelty on the part of the interdictors not to try the question.

Mr. Candlish warns Lord Normanby not hastily to commit himself on this great question.

to calculate the disturbing force of any heavenly or spiritual element, they may affect to treat the religious spirit, awakened in men's bosoms by God Himself, with the same cold neglect or arbitrary discretion with which they may deal with the more familiar and more manageable motives of mere worldly interest or ambition. It were wiser, my lord, and safer to make a timely distinction. It were better to have some faith in the reality of religious principle, and in its power. The dark history of the house of the Stewarts, tells what it is to trifle, or to tamper with, a force that is beyond and above the power of man."

Points out the danger of disregarding the power of conscience and of religious principle.

The state of feeling in high places, which called forth this letter to Lord Normanby, offered little encouragement to that measure for the settlement of the Scottish church question, of which notice had been given a few days before the letter was published, by the late Duke of Argyll. Lord Aberdeen, who, ever since the defeat of his own bill, had, unhappily, taken up an attitude of confirmed hostility to the general assembly, did his utmost to dissuade his Grace from attempting to legislate on the subject. It was needless, if the duke would take his lordship's word for it, to speak now of legalizing even the veto-law itself—for nothing would satisfy the extravagance of the non-intrusionists but the entire abolition of patronage. His Grace, however, had received, he said, other information, in which he was disposed to confide, and, "unless he were convinced to the contrary, he should feel bound to bring in some measure on the subject." This was on the 5th of March. On the 3d of May, three days before the duke's bill was actually laid on the table of

The Duke of Argyll's bill and its prospects in the House of Lords.

CHAP. XIII. the house, another attempt, and one still more formal and deliberate, was made to render legislation—with a view to an amicable settlement—impossible, by driving matters to extremities at once. On this occasion the movement was headed by Lord Dunfermline. The former speaker of the reformed house of commons had no sympathy with the reforming church; and, strange to say, though himself an avowed supporter of dissenting principles, he came forth among the peers of England as the advocate of the crouching erastianism of Strathbogie. He presented the petition of the suspended ministers, and moved for a copy of the libel to which they were to be called to plead at the bar of the general assembly. In doing so he laboured hard to persuade Lord Melbourne to bring the authority of government to bear on the refractory church, and thus to put down, with the iron-hand of power, her claims to spiritual independence. The premier, however, had no mind to commit himself and his government to so questionable and hazardous an enterprise. "He would not introduce a measure which would interfere with the authority and privilege of the general assembly of the church of Scotland." Lord Aberdeen—always at hand when a blow was to be struck at the unhappy non-intrusionists—was not slow in seconding the assault of his political antagonist. "A violent collision," said his lordship, "had taken place, and the utmost confusion and disorder existed. He would not call it rebellion, because men were accustomed to connect with rebellion acts of violence; but it was not the fault of many of those reverend gentlemen that others were not in open rebellion, and with

Attempt made by Lord Dunfermline to render an amicable settlement impossible.

Lord Melbourne declines to interfere, by force of law, with the privileges of the Assembly.

Lord Aberdeen supports the attack of Lord Dunfermline.

arms in their hands too, against the execution of the law, through the inflammatory and seditious harangues with which they had excited the whole country against the decisions of the courts. And this was the state of things which the noble viscount said he could afford to allow to go on a little longer."! But the constitutional *vis inertiæ* of Lord Melbourne was not to be set in motion by a gust of passion. The threatened Scotch rebellion—headed by Dr. Chalmers as general-in-chief—was not sufficiently formidable to alarm Downing-street, or to create any particular commotion at the horse guards. It was not the statesman's, but simply the angry controversialist's words, that were ringing through the house of lords, —and the shrewd premier smiled. The Earl of Roden, whose piety enabled him to form a juster estimate both of the men and the principles so harshly condemned by Lord Aberdeen, calmly observed, that "the observations of the noble and learned lord (Dunfermline) on the eminent persons he had attacked were, in his opinion, far too strong." With reference to the charge Lord Aberdeen had brought with so much keenness against the government, that their church patronage had been habitually exercised in favour of non-intrusionists, Lord Roden thought it "the highest compliment to the ministry they had ever received." His lordship's experience in Ireland had taught him the difference between a moderate and an evangelical clergy.

Lord Aberdeen's threatened Scottish rebellion, headed by Dr. Chalmers, does not greatly frighten Lord Melbourne.

Lord Roden defends the Church, and replies to its assailants.

The attempt to precipitate a collision between the state and the church having failed, and the door being, in consequence, still left open for a legislative

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adjustment of the question in dispute, the Duke of Argyll brought in a bill framed for this purpose, on the 6th of May. The ancient and honourable house of which his Grace was the existing head, was inseparably identified with the struggles of the church of Scotland. Twice had it given a martyr to the cause of Scotland's covenanted reformation; and now, therefore, when some of the very chiefest of those great principles, in support of which so much precious blood had been shed two centuries before, were once more in danger of being overborne, there was a peculiar fitness in the fact that a defender of these principles should have been found in the person of Maccallum-more. His Grace's bill was substantially a repetition of the church's veto-law of 1834. The chief differences between them were these—*first*, that the bill extended the right of veto from male heads of families communicants, to all male communicants above twenty-one years of age; and, *second*, that it made a distinct provision for setting aside the veto in every case in which it should be proved that the opposition was due to factious and causeless prejudice. In the very intelligent and judicious statement with which his Grace prefaced the introduction of the bill, he took his stand upon the non-intrusion principle, as having been, from the period of the reformation, an essential article in the constitution of the Scottish church. "No attempt," said his Grace, "was ever made in any of those acts of parliament which adopted the church of Scotland as the national one, and conferred her endowments, to fetter the exercise of this principle. The act of Queen Anne, indeed, as now

Duke of Argyll brings in his bill on 6th of May.

The nature of the bill and its provisions.

His Grace's speech in introducing his bill.

interpreted by the Auchterarder decision, had set that principle altogether aside, and this was the very reason which both justified and required the adoption of such a measure as that which we were now laying upon the table of the house." To satisfy their lordships that his bill would really meet the case and put an end to the painful conflict which now agitated the church of his native country, his Grace read letters from Drs. Chalmers, Gordon, and others, and also a communication from the non-intrusion committee of the general Assembly. The duke, while referring to these proofs of the support which his bill would receive in Scotland, noticed in passing the whisper which had reached his ears, that the fact of his bill being favoured by the church of Scotland would be an argument, not for it, but against it, in the house of peers:—"He could not believe that a prejudice, at once so injurious to that venerable church and her clergy, and so unworthy of their lordships, would be for a moment allowed to influence the decision to which their lordships would come on this important subject." His Grace reminded the house how grievously the practical suppression of the non-intrusion principle, by the arbitrary proceedings of the general assembly, had, during the preceding century, weakened the Scottish church establishment, by driving into secession large bodies of its members. Should such a bill as that which he now proposed be withheld, he forewarned their lordships that "a still larger number of the members of the establishment would secede from it." "The mischiefs," he added, "which must ensue from such a division in the church were too evident to require that he should

His Grace reads letters from Drs. Chalmers, Gordon, &c.

His Grace notices the injury done to the Scottish Church by the arbitrary exercise of the right of patronage during last century.

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do more than allude to them." In the discussion which followed, the duke was supported by the Earl of Roseberry—a nobleman who, though unconnected with the church of Scotland, has, on every occasion where its interests and honour were concerned, manifested towards it, in his place in parliament, a most friendly spirit; and also by the Marquis of Breadalbane and by the Earl of Roden. He was opposed, with at least equal cordiality, by Lords Dunfermline, Haddington, and Aberdeen. In his eagerness to damage the bill in the estimation of his fellow-peers, Lord Aberdeen put various cases by way of showing what monstrous results might be expected to come out of it. The following is a specimen:—"Again, a presentee might be objected to, merely because he was compelled to take the oath of allegiance, and still the presbytery would be bound to reject him. Was it to be tolerated that anything so monstrous should be sanctioned by parliament!" Did his lordship ever hear of such an objection being made against a minister by members of the church of Scotland? Was it candid to insinuate into the minds of the English aristocracy a prejudice, not against the duke's bill only, but against his countrymen, so utterly groundless? But had it been even within the limits of rational belief that such an objection would ever exist anywhere except in the mind of one who was determined, with or without reasons, to veto his Grace's bill, nothing but the heat or haste in which his lordship spoke could have blinded him to the fact, that under that bill the presbytery would not only not have been bound to reject the presentee, but would most certainly have been bound

The supporters and the opponents of the bill.

Extravagant supposition made by Lord Aberdeen to damage the bill.

to reject the objection itself. The bill having been read a first time, it was agreed that the further consideration of it should stand over till after the general assembly.

Meeting of the General Assembly of 1841.

That assembly met at Edinburgh in St. Andrew's church, on the 20th of May. Its moderator was the Rev. Dr. Gordon, a man whose dignity of character peculiarly fitted him to preside, in so grave an emergency, over the supreme council of the church. Combining the graces of piety with the resources of a profound and comprehensive intellect,—the learning of a divine with the firmness of a confessor,—the benignity of a father with the candour of a judge,—he possessed, in a pre-eminent degree, those qualities which inspire confidence and command esteem. Wide asunder as the poles though the two parties were, whose momentous discussions were about to begin, they were entirely at one in the choice of their moderator. It was by an election, as cordial as it was unanimous, that he was called to the chair. The first act of the assembly was the striking off from the roll the names of three individuals, whom, with consistent audacity, the seven suspended ministers, sitting in presbytery by warrant of the court of session, had sent up to represent them in the general assembly of a church whose authority they were treating with systematic scorn. The business which engaged the attention of the court was of the usual multifarious kind,—but the matters which rose prominently above the rest, were those that were immediately connected with the great conflict of the church. The leading debates were those which were occupied with the law of patronage,

The moderator, Dr. Gordon.

The Assembly strikes off the roll the names of certain pretended Commissioners, from a pretended Presbytery of Strathbogie.

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The three leading questions of this Assembly. The *first*,—the abolition of patronage.

the Duke of Argyll's bill, and the deposition of the Strathbogie ministers. That which came first in order was the debate on the law of patronage. The overtures for the abolition of that law, which had come up from many of the inferior church judicatories, having been called for, the Rev. Mr. Cunningham rose to address the house. Since the time when his brief but trenchant speech, in 1833, first startled the comfortable and complacent advocates of the old corrupt system from their dreamy repose, both the cause of anti-patronage and its champion had won a place for themselves, broad and conspicuous, on the field of ecclesiastical discussion. The cause was now no longer the forlorn hope of a feeble and despised minority,—but a watch-word which rallied around it half the forces of the church. After shortly noticing the peculiar circumstances in which the question now came before them, Mr. Cunningham read his motion, which was in the following terms:—"The general assembly having considered the overtures anent patronage, resolve and declare, that patronage is an evil and a grievance; has been attended with great injury to the interests of religion, and is the main source of the difficulties in which the church is now involved, and that its abolition is necessary, in order to put the whole matter of the appointment of ministers on a right and permanent basis." The speaker quoted from the address to the parliament of 1649, by the general assembly of that day, this important statement:—"All things that concern the nomination, and choice, and calling of ministers, are given of God to the people and presbytery. We do not anywhere read in the New Testa-

The Rev. Mr. Cunningham's motion.

Quotation from the address to parliament of the Assembly of 1649.

ment that any other had any hand in any part of their calling. Now, suppose the nomination and choice to belong either to the people or to the presbytery severally, or to both of these jointly, or by mutual consent, IT ALWAYS FOLLOWS that the patron's nomination and choice of the minister takes it away from those to whom it is given of God; and THEREFORE patronages and presentations of kirk are sinful and unlawful." The address from which these words are taken bears attached to it the honoured names of Samuel Rutherford, John Livingstone, and others,—men surpassed by none either for learning or godliness. In the course of his masterly argument, Mr. Cunningham put his case in the following terms:—"This is the substance of our position, that patronage is a plant which our heavenly Father hath not planted, and which must, therefore, be rooted out. We would like to receive from our opponents a distinct negative to this: we would like to hear them say, that it *is* a plant which our heavenly Father hath planted; we would like to hear them say, that He hath planted it any other way than as evil is permitted, and as the man of sin is permitted to have power in the world." Mr. Cunningham said he had seen the scripture argument against patronage "nibbled at, evaded, carped at;" but that he had never seen it "fairly and strongly met." In this respect the discussion of 1841 produced nothing new; the debate abounded in the *argumentum ad hominem*,—in elaborate attempts to show that Mr. Cunningham and his friends were chargeable with great inconsistency in submitting to a system which they held to be at variance with

Great names attached to that address

Summary of Mr. Cunningham's argument against patronage.

The opponents do not fairly face the argument

CHAP. XIII. God's word; but no one undertook to face his assertion with a negative and to maintain the contrary proposition. It has been already mentioned that the progress of events had been serving of late more and more to disgust the mind of Dr. Chalmers with the law of patronage, and to prepare him to look—if not with strong desire, at least with considerable complacency — on the possible overthrow of the entire system. His speech on this occasion was accordingly occupied, to a large extent, in showing how groundless were those fears, which the very prospect of such an event awakened in many minds. Dr. Makellar said, that if "the hopes which he entertained from the bill which his grace the Duke of Argyll had introduced were to be disappointed, and that no efficient, adequate restriction, or no proper regulation of the exercise of patronage were to be afforded, Mr. Cunningham would find him, in the humble exercise of his powers, and to the extent of his energies and opportunities, resolute to contend for the same object." But meanwhile, under the influence of a conviction that to issue a declaration against patronage at present would weaken the duke's hands, and hinder the passing of his bill,—he, Dr. Makellar, said he would move as an amendment, that "it does not appear for the interests of the church and people of Scotland to adopt" Mr. Cunningham's motion. Dr. Cook preferred another and stronger amendment of his own—that the overtures against patronage should be dismissed. He denied that the state, in setting up a law of patronage, interfered at all with the rights of congregations,—because if they did not like

Dr. Chalmers holds the fears to be groundless with which many contemplated the abolition of patronage.

Dr. Makellar's amendment.

the state's terms, they were free to worship elsewhere than in the state's churches. "I don't interfere with their christian rights," said Dr. Cook, speaking for the civil power, * * * * "if they do not wish to come here, they will still have the same opportunity of worshipping God and learning divine truth which they had before; and if it is their opinion that their spiritual state will be more advanced by remaining as they were, I leave them at perfect liberty." This was obviously and altogether beside the question which Mr. Cunningham had raised,—Was patronage a scriptural system; was there any precept or principle in God's word to sanction the vesting in any man, or body of men, or in the state itself, a right to nominate the ministers of a christian church, merely on the ground of a certain secular qualification? Dr. Cook attempted to show that the New Testament is not explicit as to the mode of electing ministers; but he made no effort to prove that it anywhere recognizes the right of election as being other than a spiritual right, to be exercised in virtue of spiritual qualifications alone. It was not a question between election by the many, and election by the few; nor was it a question between election by the rulers, and election by the members of the church. Admitting that there might be some room for argument on points like these, they were not the points in discussion. These various modes of proceeding, however they differed in other respects, agreed at least in this—that they left the election of the minister *within the church*. Mr. Cunningham's grand objection against patronage was—that it took the election out of the

Dr. Cook's speech; his theory of the rights of the christian people.

Dr. Cook misses the point of Mr. Cunningham's scripture argument.

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Scripture places all rights connected with the election of ministers *within* the Church. Patronage places the most important of these rights *without* the Church.

church; for granting that the patron may be a member of the church, it is not as a member of the church, but solely as the possessor of a certain civil right, that he chooses the minister. For anything in the law of patronage, he may not only be no member of the church, but he may be a man whom no church, regulated by a scriptural discipline, could receive within her pale.

Dr. Cook would not venture to bring the matter to the test of scripture at all; and his reason for declining to do so is not unworthy of notice. It throws much light on the principles of moderatism. "A great principle is laid down," he remarked, "that nothing must be done contrary to the word of God; but then, there are a vast number of arrangements established in the christian world, and which every christian reveres and observes, that are left totally indefinite, so that we have a variety of churches, a variety of establishments, a variety of forms of established governments,—under all of which, I hope I may safely assert, the power and the influence of divine truth may be experienced. I maintain, that if you go to scripture, and found upon scripture for anything that is said with respect to the election of a minister, and with respect to patronage or against it,—if you go to this, then you must take this along with you, that there must be one and the same definite construction for all things; and if you are to follow out the principle, and say that we shall not consider as binding upon ministers anything but what is explicitly and precisely laid down in the word of God, I say you will alter the state of the christian world entirely, and so alter it as

Dr. Cook's objection against taking Scripture as the rule.

to tend in a fatal degree to destroy and corrupt religion." The substance of this singular statement, —vague, loose, and latitudinarian throughout,— appears to be this—that the institutions and arrangements of Christendom will not stand the application of a scripture test, and that, therefore, Dr. Cook could not commit himself to a principle by which so many existing things would be condemned. He would not apply it to patronage, because he was not prepared to apply it universally: to do so would be, in his judgment, to injure religion. True, indeed, the application of the principle would make wild work in that "variety of churches, church establishments, and forms of church government" which we have in the world; for, unhappily, those conventional rules and views of expediency which Dr. Cook seemed to consider sufficient for disposing of the question of patronage and the election of ministers, are the only authorities which could be pleaded for a very large proportion of the ecclesiastical arrangements that have hitherto prevailed. But it is no legitimate argument against a principle that, if carried out, it will come in collision with many existing things; and least of all, is this a valid objection to anything that can be shown to be a principle of God's word. Mr. Cunningham affirmed that God's word repudiated patronage. If that assertion was well founded, it would not do for Dr. Cook to complain of the wide range over which such a conclusion would carry him. But though Dr. Cook, in his peculiar mode of dealing with the scripture argument, could find nothing like a principle on the subject of the election of ministers in the bible,

The scripture rule would condemn too many existing things, and therefore Dr. Cook will not have it.

This no argument against a principle: and especially, against a principle of God's word.

CHAP. XIII. he found such a principle elsewhere:—"Is there no principle which may be affirmed with respect to the election of a minister? There is. There is a right conferred by God, and which I take leave to call one of the original rights of mankind. I hold that every man, in his individual capacity forming a part of a voluntary association, has it in his power to elect his own minister: he is entitled to choose the mode of worship he approves, and with regard to that, I say, that if there is any invasion upon it,—if there is any act of government declaring to any man that they will shut him out from this great and high privilege, I say that government, in so far, is a system of despotism and oppression." But government, according to Dr. Cook, leaves him the full enjoyment of this "great and high privilege," so long as it tells him that he may have it by leaving his parish church! The theory is in perfect keeping with those erastian principles which Dr. Cook and his friends, in common with the courts of law, maintained. It is a theory which first reduces the church to the level of a mere voluntary association, and then brings down any right or privilege which it may possess to a simple *jus humanum*,—as good, but no better, than the title which men have to enjoy the rights and privileges of a society which they have formed themselves. Lower the church to this position,—remove it from the high and sacred elevation which it occupies when recognized as out and out a divine institution,—degrade it into a mere voluntary society or state corporation, and there is no longer any difficulty in subjecting it to state control. On the other hand, concede to it its

The only principle admitted by Dr. Cook is the *jus humanum* of all societies to choose their office-bearers.

This right the State preserves, because, says Dr. Cook, men may have it by leaving the National Church.

The argument lowers the Church to the level of a self-formed human society.

true character as a kingdom not of this world,—as the house of God upon earth,—a society founded and governed by its divine Head and Lord,—and the utterly untenable nature of Dr. Cook's argument in defence of patronage will at once appear. If the church be a divine institution, the state is no longer at liberty to say—We will grant or not grant this or that privilege to its members. If Christ has given them a right to have a voice in the choice of their ministers, the state is not entitled to take that right away. It is not at liberty to set up a church, curtailed of its scriptural rights, and then to tell the people,—It is true, you cannot have all the privileges of a bible church in that which we have established; but you may have them by withdrawing from its communion and forming a church of your own! "If there is to be a national church at all," said Mr. Makgill Crichton, replying to Dr. Cook in a speech full of pointed and powerful argument,—"it ought to be pure in its doctrine, free and unfettered in its spiritual liberty, and thus calculated to embrace the general population. While liberty of conscience should be preserved inviolate, and all left free to conform or dissent as they see fit, the national church ought to be restricted and crippled, by no conditions calculated to repel the people from her communion." Again, referring to the statement of Dr. Cook, and to which Dr. Chalmers had given some countenance, viz., that scripture laid down no rule as to the mode of electing ministers,—the same speaker justly observed, that the doctrine of scripture, upon many important points, is as clearly indicated in great general prin-

If the Church be a divine institution, it is not competent to the State to withhold any privilege from its members which Christ has given them.

Speech of Mr. Makgill Crichton in reply to Dr. Cook.

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ciples as if it had been expressly set forth in particular commands. "Hath not our Lord declared that his church is a free and spiritual kingdom? and does it not clearly follow, that it is inconsistent with the essential nature of that kingdom to vest the choice and appointment of its spiritual teachers and pastors as a secular right,—as a mere piece of worldly merchandise, to be bought or sold or inherited? Is it consistent with the purity of the church, or with the spiritual liberty of Christ's people, that the sacred trust of electing pastors should not only be taken from the members of the church, but so disposed as common worldly property, that all its holders may be,—and in fact the great majority are,—either alien or hostile to her communion. Sir, I have to enter my complaint that my venerated friend, Dr. Chalmers, has to-day given the sanction of his great name to this fallacy, that in the matter of the appointment of ministers, the patron and the people are to be placed in the same category, and that evils as great may result from the popular election of ministers as from the operation of lay patronage. One would think that we advocate a system of universal suffrage in the election of ministers. Sir, it is not so. There is a high religious qualification necessary, in order to the enjoyment of the privilege. The electors are exclusively those who, after due inquiry as to moral character, and due examination as to knowledge and principles, have been received into full communion with the church. Can it then for an instant be admitted, that the voice of the congregation, speaking by the majority of its communicants, in a matter of such dear and sacred interest to themselves

The system of patronage at variance with the freedom and spirituality of Christ's kingdom.

Complains of Dr. Chalmers for putting patron and people into the same category: and shews the difference.

and to their children, is entitled to no more weight than the voice of my lord or squire, himself an alien to our church, who may dictate to the people their future pastor. Sir, I proclaim such a statement to be a libel upon my countrymen, the christian people of Scotland: and I record my conviction that under the popular election of ministers, resting as it does upon the basis of sound principle, there will not be found a tithe of the evils which flow from lay patronage." After a long discussion, in which Dr. Makellar's views were supported by Dr. Patrick M'Farlan and Mr. Earle Monteith, those of Dr. Cook, by Dr. Bryce and Mr Robertson of Ellon, and those of Mr. Cunningham by Mr. Christie of Durie, and Mr. Candlish, the matter was at length brought to a vote. Dr. Cook's amendment having been put against that of Dr. Makellar, the former was carried by a majority of 11; the numbers being 120 to 109. A division was then taken upon Dr. Cook's amendment put against Mr. Cunningham's motion,—and the moderate leader was again the victor: the numbers being for the motion 135, and for the amendment 138. In 1833 the odds in favour of patronage were very different. That year the majority was, as near as possible, four to one. Now, the votes were all but equally balanced. The Auchterarder case, and the Marnoch intrusion, and the countless encroachments of the courts of law, had been rapidly bringing back the church to the ground of the second book of discipline, that patronage was "one of the special heads of reformation" to be craved—and which "ought not now to have place in this light of reformation."

The speakers in the debate.

Dr. Cook's amendment put first against Dr. Makellar's and carried. Put next against Mr. Cunningham's motion and carried.

Progress of the anti-patronage cause since 1833.

CHAP. XIII.

The Duke of Argyll's bill brought up by report of non-intrusion committee.

On the following day, the assembly took up the consideration of the Duke of Argyll's bill. It was brought before the house by the report of the non-intrusion committee, which was laid upon the table by Dr. Makellar. The debate upon the bill was opened by Mr. Candlish, in a speech so full of conciliation, candour, and generosity,—a speech which appealed so powerfully to all the better feelings of men's hearts,—that for once the heat of controversy was allayed, and for a moment it almost seemed as if, on this question at least, the two parties were about to be at one. Nor was there anything extravagant or unreasonable in the hope that such a result might have been realized. Had the minority of the assembly concurred with the majority in supporting the bill, it would in all probability have obtained the sanction of parliament. The application of a united church could not well have been refused. Lord Aberdeen, in all probability, would no longer have put his powerful veto upon the measure, had that of his allies in the general assembly been withdrawn. Such a concession may, to him indeed, have seemed to be a price too large to pay, even for the peace and integrity of the church of Scotland; but he would hardly have refused to make it, had it been requested by his own friends,—and they at least, it might surely have been thought, could scarcely be either blind or indifferent to the consequences of its being refused. They had better means than were possessed by aristocratic statesmen and busy politicians in London, of estimating the actual dangers of the church, and of judging what was necessary to remove them. They knew that with

Generous tone of the speech of Mr. Candlish, and the impression it made on the house.

Reasons why the moderate party might have been expected to listen to Mr. Candlish's appeal.

their opponents in the assembly, the principles contended for were matters of conscience and religious faith, which they could not yield, save at the expense of such a destruction of their own character, and such consequent damage to the church herself, and to the cause of God in the land, as no christian mind could contemplate without the utmost grief and alarm. They knew, moreover, that, excepting that shameful issue, there neither was, nor could be any other alternative for the majority of the general assembly,—in the event of such a legislative settlement as the Duke of Argyll's bill contemplated, not being obtained,—but to abandon the establishment, and to expose themselves and their families, it might be, to poverty and want. They also knew that on their own side, there were no such formidable hazards to be encountered by maintaining their peculiar views, nor any such difficulties to be confronted in the event of their giving way. It was to cost them nothing whether they voted for or against the bill. The rejection of it by parliament might more than half empty the general assembly, and shake to its very foundations the national church, —but it would not touch a hair of their own heads: it would neither rifle their pockets nor oppress their consciences. The adoption of it, on the other hand, while it would keep the assembly and the church entire, would accomplish this end, simply by restoring an order of things which they had found perfectly tolerable before, and would have found perfectly tolerable again. It was on the ground of such considerations as these, Mr. Candlish rested his powerful and touching appeal.

It would cost *them* nothing to accept the bill. The loss of it might drive the evangelical party from the Establishment.

CHAP. XIII.

The earlier part of his speech was chiefly occupied with an exposition of the bill itself, which he showed to be in substantial harmony with the principles of the church, both as to non-intrusion and spiritual independence. The motion he had proposed consisted of a series of resolutions—the first of which declared it to be the determination of the assembly to adhere to the non-intrusion principle, and to acquiesce in no arrangement by which that principle was not fully recognized. The second resolution embodied an approval of the Duke of Argyll's bill, as being fitted to "provide for the maintenance and practical application of the principle of non-intrusion as asserted by this church:" and as being a measure "which this church may receive as consistent with that fundamental principle, and which, if passed into a law, would be received with thankfulness, as an important boon to the church and the country, and that the church and country are under deep obligation to his Grace the Duke of Argyll for this new proof of that enlightened patriotism and zeal, which have distinguished the illustrious family whose name is honourably enrolled among Scotland's martyrs and confessors."

The resolutions proposed by Mr. Candlish.

Mr. Candlish did not, of course, either ask or expect the minority of the assembly to concur in either of these resolutions; but there was another which he was willing to put separately from the rest, and in which he did feel himself warranted to express a hope that they might find it possible to concur. "Before reading the third resolution," he said, "I beg, with all deference, to appeal to my friends on the other side, as also to all within this house—whatever their

The particular resolution, in respect of which he made his appeal to the moderate party.

views may be—who desire the peace and prosperity of our Zion; and if means could be found to separate this resolution from the rest, so as to make it consistent with the principles of the party on the other side of the house to support it, I should not be without hope of the most blessed results. * * * I would beseech my friends on the other side of the house—setting aside all irritating feelings,—putting aside, for the present, the painfully afflicting case in which we shall be engaged to-morrow, and confining myself entirely to the point of non-intrusion—I would calmly put it to the house to consider the difference, in respect to principle, between our side and many, at least, on theirs. They, I believe, will give us full credit for conscientiousness of opinion; and the same credit I give to them. Frankly I concede to them, that as we cannot concur in the soundness of their views, so they cannot concur in the soundness of ours, and that they cannot share in the responsibility of having our views carried practically into effect. I admit frankly that our friends are conscientiously disabled from undertaking the responsibility of passing the measures which we propose; but there is a point of difference between us,—we have taken up our position, whether right or wrong,—we never will abandon the principle of non-intrusion, in our sense of the term,—we never can abandon the principle that reclaiming congregations shall, in all cases, be saved from the intrusion of unacceptable ministers. Now, just for once, let me put it to my friends to dismiss from their minds the irritating topic of our having taken up a position as rebels; we say that we are not in that position, and

CHAP. XIII.

His appeal to the moderate party.

The position, in reference to non-intrusion, of the evangelical party.

CHAP. XIII. my friends, I am sure, will do me the justice to admit that we are able to urge a plausible defence against the allegation. * * * They seem to think that we, on this side of the house, have a sort of liking for the position in which we stand, I entreat them to believe that they are grievously mistaken,—we have no wish to covet or to court the glory of martyrdom; and however willing we may be to endure the reproaches that have been heaped upon our heads, let not our friends suppose that this is a position in which we exult and rejoice, as if it were a desirable position; and that we delighted in it the more, the more we were abused. No, but the difficulty of our position consists in this, that we can neither get relief by going out of the church, as is proposed by some, nor can we get relief by submitting to the law, as is proposed by others. These two remedies have been proposed—I say not in what spirit—they have been proposed by the enemies of our church from without, and, I grieve to say, are often proposed by our friends and brethren within. If the matter were indeed personal to myself, I should be grateful and glad for the relief, if I could escape from the difficulties which surround us by either of these two ways. If I were to leave the church of my fathers, I could worship God elsewhere; if I were to relinquish my position in the established church, I know that I could serve the Lord Jesus elsewhere, and preach the gospel of His grace in any part of the earth, and might be rid of the embarrassments that now vex my peace and hinder my pastoral work. If, again, I were to bring myself to submit to the law, I, even I, rebel as I am, and

The evangelical party have no love for the hazards of their position.

The taunts thrown out against them.

If it were a mere personal matter, Mr. Candlish would be glad to relieve himself of all further annoyance by quitting the establishment.

taunted as such in the high places of the land, is it to be supposed that I am insensible to the evils that I suffer,—evils affecting my character and my peace, which no man can endure with patience—set up as a mark for the press and for peers to aim at, that I would cling to such a position if I could leave my post of duty? but I cannot do this, and again I entreat the house to consider our position. I admit our friends on the other side can have no hand in the responsibility of passing this measure; but I put it to many of them whether it is not a measure which, passed into a law, they might acquiesce in, they might submit to, they might act under in concert and harmony with us. When the veto act was passed, my brethren (opposite) did not approve of it; they resisted it, and they afterwards sought its repeal. I admit that in all this they acted right,—according to their own views of duty; but when it was passed they had no difficulty in acting under it, they had no scruples in ordering the settlement of ministers according to that law. I ask them if this were again to become the law of the land, if they will not assist, at least they will submit to, its passing. They might agitate for the repeal of the veto (that is, for the repeal of it by the church because of its not having the sanction of civil law), they might seek to convince the church she had done wrong; but suppose the church to obtain the permission of the legislature to act in that way in which she holds it to be her duty to act, I say, would it be inconsistent in them to acquiesce in this settlement of the affairs of our beloved church? If means could be found to obtain this expression of opinion from our friends

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He cannot do this consistently with his duty.

Shows that there is no corresponding difficulty in the position of the moderate party.

CHAP. XIII. opposite,—that while they wash their hands of all responsibility in the matter, while they do not think the church is right to ask it, while they hold to their objections, yet that if it is passed into a law it will not offend their consciences to act under it; by such a statement they will prove themselves the most generous, the most disinterested, the most seasonable benefactors the church ever saw. The time has now come when our friends may be expected to make such a statement. As long as this matter was not involved as it now is,—while matters stood as they did a year or two ago,—I admit they might stand aloof and say nothing; but now, in the critical position in which the church is placed—a position so critical that none on our side of the house, however desirous of seeing anti-patronage carried to morrow, would refuse to take non-intrusion to day—in such a position our friends are imperatively called upon, for the sake of Zion's peace, to say whether, if this bill were passed into a law, both parties might not act in concert under it." The solemnity and tenderness of feeling which this winning and noble address had produced was both so universal and so manifest, that the speaker could not refrain from giving expression to the sentiments of devout thankfulness which it awakened in his breast. "I rejoice that I have been the humble instrument under God of bringing the house to its present state of mind, which—I say it with all humility—is better than I ever saw it before; and I shall indeed rejoice if the feeling which now pervades the house shall give the key to the whole discussion; and if so, under the blessing of God, we know not what may be the result.

They would act a generous part by not opposing the Duke's bill.

The critical state of the church required this at their hands.

Mr. Candlish congratulates the house on the state of feeling prevailing in it.

I say this in no spirit of argument or of controversy, I am speaking under a weight of responsibility deeper than I ever felt before, I am speaking under an apprehension of the impending calamities with which our beloved church is threatened." CHAP. XIII.

The particular resolution on the adoption of which Mr. Candlish designed his appeal to bear, he now read to the house. It was in the following words:— "That the present difficulties of this church are of so serious and alarming a character, that a measure fitted to put an end to the collision, now unhappily subsisting between the civil and ecclesiastical courts in reference to the settlement of ministers, ought to unite in its support all who feel that they could conscientiously submit to its operation if passed into a law." The resolution for which he asks the support of the moderate party.

Although the house adjourned at the close of this remarkable speech, the impression it had made was found to be still fresh and strong when the debate was resumed in the evening. The tone which it had given to the discussion was maintained throughout, and was perceptible, indeed, in all the subsequent proceedings of that assembly. Unfortunately, however, it led to no practical result. The speakers on the side of the minority reciprocated the calm and conciliatory language of Mr. Candlish, but they opposed the bill. The adjournment.

The motion of Mr. Candlish having been seconded by Mr. Buchan of Kelloe, Dr. Brunton rose and said, he "desired to imitate the spirit in which Mr. Candlish had addressed the house." At the same time he spoke of "a difference between the sentiments of the heart and the convictions of the understanding," which seemed to imply that he was not prepared to Debate resumed. Dr. Brunton's speech.

CHAP. XIII. act in the way proposed. Dr. Hill was more explicit, though not less mild in giving expression to his views. He was filled with "admiration of the manner in which this discussion was opened by Mr. Candlish;" but his admiration did not carry him so far as to support the resolution. It did not seem, indeed, that there was anything, in his views of the bill, that should have hindered him from giving to it that negative support for which Mr. Candlish pleaded. "If that bill," he said, "had come from her majesty's ministers, or high legal authorities, they would have been bound to support it; but he could not overlook the small support the Duke of Argyll was receiving. He had scarcely contemplated the possibility of the bill being presented to the assembly. We had only to look at the proceedings of last year to see that this bill would not pass a second reading. It might be compared with Lord Aberdeen's bill. That bill had met with no countenance here or in the house of lords. It did not pass in the latter, because it gave too much power to the ecclesiastical courts. It interfered too, with the rights of patrons. Now what was the character of the bill before us? It interfered still more with the rights of patrons, and it gave still more power to the church courts. If the chancellor of England had exclaimed against Lord Aberdeen's bill, how much more would he exclaim against the present one."

Dr. Hill admires Mr. Candlish's spirit, but declines to support the resolution.

Dr. Hill thinks there is no chance of the Duke's bill passing; and therefore he opposes it.

Dr. Hill was also of opinion, though he failed to acquaint the assembly with his reasons for being so, that the bill would not serve to extricate the church from the difficulties of her position. "It would effect nothing," he said, "for the removal of these difficul-

ties;" but he added, "let the assembly declare that she abandons the veto-law, and the affections of the people would flow towards them, and we would all unite in upholding her spiritual independence." The assembly had nothing to complain of as regarded the affections of the people. They had flowed towards the church with marked and increasing cordiality, ever since the veto-law was first adopted. The passing of that law in 1834 was the first palpable proof the people had, for several generations, received of the assembly's desire to do justice to their rightful claims, —and they appreciated the constancy with which it had been subsequently maintained. But why the repeal of the veto-law, and the consequent return of such settlements as that of Marnoch, should call forth a burst of popular gratitude, it was not very easy to understand. It was, perhaps, a lurking consciousness of the difficulty of making this intelligible that deterred Dr. Hill from even attempting it. He was equally, and perhaps not less discreetly silent, as to the mode in which he and his friends were, upon the condition proposed, to support so strongly the independence of the church. To those who have no theory on the subject to maintain, it will probably appear, that for the church to have repealed the veto-law would, in the peculiar circumstances of the case, have been tantamount to a renunciation of the doctrine of spiritual independence altogether. At that moment the veto-law had come to be the very symbol of her independence. So long as it stood among her statutes, it proclaimed to her people, and to the community at large, that while civil enactments must needs govern

Dr. Hill would have the church to abandon the veto-law. This the grand panacea.

Reasons which made it impossible for the church to consent to repeal the veto-law.

CHAP. XIII. such civil and temporal things as the benefices of the church,—her own laws, founded upon the word of God, were the only authorities competent to regulate such spiritual matters as ordination and admission to a cure of souls. By maintaining the veto-law, she simply, but most significantly declared, that even to gain the temporalities of the state, she could not, and would not, surrender the spiritualities of the church. The Duke of Argyll's bill would have placed the civil law respecting the one in harmony with the ecclesiastical law respecting the other; and hence her anxiety for the success of a measure that would have restored this happy and most desirable agreement. But to repeal the existing ecclesiastical law when, as yet, nothing had been done on the side of the state at all,—could mean nothing else than this, that she had made up her mind to keep the secular emoluments of her establishment at the expense of casting her own spiritual prerogatives away. Dr. Hill moved, as an amendment, "that the bill lately introduced into the house of peers, by the Duke of Argyll, does not appear either likely to pass into a law, or calculated, if it were, to relieve the church from the difficulties under which she labours, and that, in order to the attainment of this desirable end, the steps necessary for rescinding the veto-act be taken."

The Duke's bill would have harmonized the civil law regarding the benefice with the ecclesiastical law regarding the cure of souls.

Dr. Hill's amendment.

The next speaker was the Rev. Robert Lee, of Campsie, now one of the ministers of the established church in Edinburgh, and the holder of that professorship of biblical criticism in the metropolitan university already noticed, as having been originally intended for Dr. Candlish. Mr. Lee took a juster and more generous

Speech of the Rev. R. Lee of Campsie.

view of the case. Though belonging to the same party as Dr. Hill, "he did not feel at liberty to support his motion. The whole of the reverend doctor (Hill's) argument was just in substance, that the Duke of Argyll's bill should not be accepted by the church because, in the reverend doctor's opinion, the church ought to repeal the veto, and because there was no likelihood of the bill passing. He (Mr. Lee), for his part, though to repeal the veto might be a means of saving the church, would not advise his brethren to do that which would render them contemptible in their own eyes and in the eyes of others. The chance of success to the bill was indeed small,—but he could not, nevertheless, reconcile it to his conscience to oppose it. They were all agreed that nothing could relieve them from their difficulties except a legislative enactment, and he could not conceive any enactment adapted to that purpose, if not some such one as this." Nor was it merely for the sake of peace and conciliation Mr. Lee gave his support to the bill. He took higher and bolder ground, and subsequent events have amply justified the soundness of his views. "It was easy," he said, "to confer popular privileges, but it was very difficult to take them away. Half the revolutions in the world had been caused by attempts to wrest back popular privileges once conferred. The people of Scotland never would give up the power of the veto; and if they did not have it within, they would have it without the church. This bill was the only modification of patronage the house would get. If another modification was needed, it would be a great one. He would not have them be like the

His reply to Dr. Hill.

Mr. Lee points out the danger of withdrawing a popular privilege once conferred.

CHAP. XIII. Tarquin, who paid a threefold price for a third of the sybil's books. Their friends on the other (the evangelical) side of the house, had shown their readiness to make what concessions they could; were they on this side, in their turn, to yield up nothing?"

Remonstrates with his own friends for refusing to meet the concessions of the evangelical party.

The amendment of Dr. Hill was seconded by Mr. David Milne, advocate, whose speech was the only one that made no pretensions to keeping tune with the key-note struck at the commencement of the debate. It was not, however, sufficiently important to create anything more than a temporary jar. The tones were discordant, but they were lost in the general harmony. Unhappily, however, the harmony itself was little more than a pleasant sound. With the honourable exception of Mr. Lee, no member of the moderate party gave anything better than smooth words as their response to Mr. Candlish's appeal. Mr. Robertson, of Ellon, from whom some had expected a more substantial expression of kindly feeling, while he "very much admired," like Dr. Hill, the spirit in which Mr. Candlish had spoken, "could not agree to the proposal which that gentleman had made to his (Mr. R.'s) side of the house,—and he thought he could give satisfactory reasons for refusing to agree." Mr. Robertson said—"Were consistency the only obstacle to our meeting Mr. Candlish's proposal, he could throw consistency to the winds; but there is also conscience, and he was not without a groundwork of principle for what he stated in this house. The scriptures of truth asserted that christian men, in dealing with one another, when they have a charge to make, should have reasons for

Mr. Lee the only individual who responded to the appeal of Mr. Candlish.

Speech of the Rev. Mr. Robertson of Ellon.

the charge: and surely when christian people have a charge against the person appointed to be their pastor, they should have reasons to give for it openly and fairly, that all the world might judge of it." In this statement, Mr. Robertson assumes that for a congregation to decline to intrust the care of their souls to any individual whom a patron may think fit to nominate, is the same thing as to bring a personal charge against him. Before, however, this can be taken for granted, it will be necessary first to get rid of the principle of non-intrusion. The very essence of that principle is this—that the pastoral tie cannot be lawfully formed without the free consent of both the parties concerned. A minister is not to be held as bringing a charge against a congregation because he declines their call,—and no more is a congregation to be held as bringing a charge against a minister because they decline his services. The making of a charge implies a responsibility which neither party is bound in such a case to undertake. It implies, moreover, the right of some third party to step in between them, to overrule the charge, and to establish the alliance against the dissentients' will. Mr. Robertson's assumption, therefore, simply begs the whole question upon the point that was in dispute between himself and his opponents. It falls in, indeed, easily and naturally with the theory and practice of moderatism in regard to the settlement of ministers. If the people had anything to allege against a presentee, which could be put into the form of a libel, and which would infer, if proved, the censures of the church, their opposition might in that case be listened to, but

Mr. Robertson's argument against a dissent, without reasons assigned.

The fallacy of his argument.

CHAP. XIII. not otherwise. This was the only standing which, in the days of dominant moderatism, had been conceded to the congregations of the church. Mr. Robertson's argument was evidently, though perhaps insensibly, derived from a reference to that state of things. It was a mere mockery, as applied to non-intrusion and the veto-law.

Dr. Hill modifies his amendment.

At this stage of the debate, Dr. Hill, at the suggestion of his own friends, asked leave to withdraw that clause of his amendment which stated, "That the bill lately introduced into the house of peers, by the Duke of Argyll, does not appear likely to pass into a law." It was in reference to this request, that the Rev. Mr. Cunningham, who spoke immediately after it was made and agreed to, said "he was glad that Dr. Hill had withdrawn the clause in his motion which made it a ground for not accepting the bill, that it was unlikely to pass. He would have thought it most unbecoming in that house to have formed its conclusions on such a ground, and he could never suppose that they would, in a motion made in such grave circumstances, found their deliberations on a consideration so insignificant and irrelevant." Referring to the *argumentum ad hominem* which had been made use of in the discussion, "Dr. Hill," said the speaker, "had taunted them with an admission of the principle of patronage, by agreeing to a modification of it. The church of Scotland, while it had always been one of her principles that the order which God's word craves could not stand with patronage, had protested for limiting and modifying the evil whenever they could not get it abolished. In 1642, the

Mr. Cunningham's speech and his remarks on the clause of the amendment now withdrawn by Dr. Hill.

Replies to Dr. Hill's *argumentum ad hominem*.

church acquiesced in an arrangement for getting the crown parishes filled up by means of leets,—first of six, and afterwards of four names. In that way the church of that day took a part in regulating and modifying patronage. Other instances he might, had it been necessary, refer to. Dr. Hill had objected also that they were admitting the right of parliament to regulate the admission of ministers. That objection was a mere play upon words. In one sense, they did admit the right of the legislature to interfere in the admission of ministers; and there was a sense also in which they denied it. The state made arrangements as to the extent to which the civil consequences should follow the decisions of the church. That was the state's part. Mr. Robertson, last night, (in the debate on patronage) seemed to suppose that they claimed a right to decide on the question of civil property,—as if the spiritual independence of the church were identical with the civil property which appertained to the church. What they claimed as necessary to their independence was—that they should take up the claim of the presentee, and judge of his admission or rejection, according to the word of God and the standards of the church. We claim, indeed, that civil consequences should be made to follow our judgments; because, as he (Mr. C.) said yesterday, if they did not so follow, the state would frustrate its own design in the establishment of the church. But though no civil effects followed the sentences of the church, that was no reason why they should change their sentences. The only effect was, that the benefice was taken away, and the design of the state *pro*

Clears up the confusion of Dr. Hill's and Mr. Robertson's ideas on the subject under discussion.

CHAP. XIII. *tanto* frustrated. But their decisions must be regulated by a higher standard than any consideration grounded on, or connected with, these civil effects. If the state did not concur in the decision of the church, the benefice and the cure would be dissociated, —and that duty which the state, and not the church, was bound to, was not accomplished."

His reply to Dr. Hill's assertion that the bill would not relieve the Church from her difficulties.

Turning his attention to that part of Dr. Hill's amendment in which it was affirmed that the Duke of Argyll's bill was "not calculated to relieve the church from the difficulties under which she labours," Mr. Cunningham said—"He need not go over the ground to show that the bill would be productive of the most important results. It would put an end to the oppressions of the civil court, and leave the ministers to go about the exercise of their ministry in peace. Dr. Hill asked them if it would settle the cases of Auchterarder and Marnoch? No, it would not settle these cases; but would the repeal of the veto settle them? According to Dr. Hill and his friends, there was no way of settling these cases but by sanctioning the revolting atrocity at Marnoch, and forcing in Mr. Young at Auchterarder. No; the bill of the Duke of Argyll could not settle these cases, but it would prevent all such cases in time to come; and these cases, however painful and annoying they might be in the meantime, they would yet get over."

What it would settle and what it would not settle.

Motion of Dr. Candlish carried by a majority of 125.

At the close of the debate, the amendment of Dr. Hill was rejected, and the motion of Mr. Candlish approved and adopted by a majority of 125; the numbers being, for the amendment 105, and for the motion 230. A majority of more than two to one in

the general assembly ought to have carried weight in parliament. It was decisive as to the prevailing sentiment of the church; and had an enlightened patriotism guided the councils of the state, the Duke of Argyll's bill would have been converted into statute law within a month after the assembly rose. But we must not anticipate the current of events. CHAP. XIII.

The assembly had still another great question to deal with, and one more exciting by far than either of those to which reference has yet been made. Matters of legislation, though in themselves the most important of all,—seeing that they affect the very constitution of the body which they concern, and may exert, for generations, a powerful influence on its character and whole proceedings,—yet do they, for the most part, move men's feelings greatly less than matters of mere administration. There is such a difference between the abstract and the concrete, in respect of present impression, that society will often look on with comparative indifference at the framing of a law, the application of which may be destined to set the kingdom on fire. So it was in these debates of the general assembly of the church of Scotland. Patronage and the Duke of Argyll's bill touched both of them, the vitals of the church's constitution as a national establishment; and without some speedy adjustment of the matters to which they related, the disruption was inevitable. And yet the interest which they awakened, excepting, perhaps, in the case of a few of the calmer and more reflecting minds, was greatly inferior to that which gathered around the case of the Strathbogie ministers. Their case, it is true, though in its own

Another great question remains to be disposed of by the Assembly.

Legislative questions, though more important, excite less interest than questions of administration.

CHAP. XIII.

The Strathbogie case: a question simply of discipline, but one of vital moment.

proper nature a mere case of discipline, was one of unusual magnitude. It was the breach by which the storming party of the erastian forces was attempting to force its way into the citadel of the church's freedom,—and no wonder, therefore, that there should have been concentrated upon it so large an amount of the anxieties and energies of the general assembly.

The parties at the bar.

When the day appointed for taking up this momentous case arrived, Thursday, the 29th of May, all the suspended ministers appeared at the bar, with the exception of Mr. Cruikshanks of Glass, the state of whose health did not permit him to leave home. Mr. Patrick Robertson and Mr. Hamilton Pyper were along with them as their counsel. In pleading their case, Mr. Robertson seemed to rely more on threats than arguments,—on the influence of terror rather than on the force of truth.

Speech of Mr. Patrick Robertson, counsel for the Strathbogie ministers.

"Have a care," said he, "that the sentence you pronounce is within your power. With respect to the relevancy of the indictment, there is nothing in that point which does not decide the merits of the indictment. If you find the libel relevant, you must proceed to pronounce sentence. We have no defence apart from this. We have committed no crime,—we offer no proof—we have no proof to offer,—the facts are admitted. Our minute of admission is before you. Have a care then how you now proceed. Will you depose us? Have you the power to pronounce sentence of deposition? Will the civil law regard your sentence of deposition, any more than it did your sentence of suspension? Will these men cease to be ministers of our Scottish church? I talk not of their right to their glebes, and their manses,

and their stipends, and their churches, and their schools? I ask, dare you loose their connection with the people,—with the flocks over whom they have long presided? Have you power to loose that connection? Have you power to drive these seven ministers from the church of Scotland?" This rapid discharge of startling interrogatories, however effective as a piece of forensic declamation, was not likely to frighten from their propriety men who inherited the spirit, and were treading in the footsteps of the old Scottish reformers. When the pleadings at the bar had been concluded, and the house was now ready to proceed to judgment, an aged and venerable minister, the Rev. Mr. Munro of Halkirk, was called on to engage in prayer, for divine guidance, in this painful and momentous case. At the close of these devotions, Dr. Chalmers rose. "The question," he said, after bringing out in the introductory part of his address, and that with equal precision and power, the radical distinction between matters of principle and matters of simple expediency, "the question between the church and the Strathbogie ministers, is not whether the veto be a good or a bad law,—but the question is, whether disobedience to their ecclesiastical superiors be a good or a bad action. They hold it to be good, because, while what they did was in disobedience to an ecclesiastical, it was done in obedience to a civil mandate. This lands us in another question,—Whether, when in a thing strictly ecclesiastical, as the ordination of a minister, or the dispensation of a sacrament, the civil court gives forth one order, and the ecclesiastical another,—whether to disobey the latter

Mr. Robertson's declamation not likely to make much impression on earnest men.

Speech of Dr. Chalmers: shews what is the real nature of the case.

CHAP. XIII. that we may obey the former, be a right or a wrong principle. We have conjured up this question, not with the view of prosecuting it to a conclusion—that has already been done a thousand times over—but of bidding you remark how utterly diverse a definition it is to the question,—whether the veto be a good or a bad law,—whether the law be good or bad,—whether an ancient or a recent law,—whether it be the oldest in the statute book, or have been enacted only a few years, and to be repealed, perhaps, in a few days,—it positively matters not to the inherent character of the offence on which we now sit in judgment; and unless we confound the essence of a thing with the occasion of a thing, we shall read, in the disobedience of the Strathbogie ministers, a blow struck at the entire jurisdiction of the church,—a distinct matter truly from any of her particular ordinances, and only to be disposed of on distinct and peculiar considerations of its own."

The conduct of the Strathbogie ministers strikes a blow at the entire jurisdiction of the Church.

But is there no umpire who can decide between the courts by which these conflicting orders are issued? On that important point the assumption of the Strathbogie ministers, and of the moderate party generally, was this; that no umpire was needed,—that wherever the two courts, the civil and the ecclesiastical, differed in their judgments, the ecclesiastical must give way. Was the assumption of their opponents the counterpart of that theory? Did the evangelical party hold that in the event of the disagreement supposed, the civil court must, as matter of course, bow to the judgment of the ecclesiastical? "We do not," said Dr. Chalmers, speaking to that precise question, "over-

The moderate theory of the right and only way of settling a difference between the civil and ecclesiastical courts.

This subject expounded by Dr. Chalmers.

look the consideration, that while there lies a power with each court, within its own proper sphere, to decide between man and man,—there must be a power somewhere, to decide, or rather to regulate and ordain, between court and court, when a conflict shall have broken out between them: a power then, which does not lie with either court singly,—not even with the house of lords when sitting in its judicial capacity as the supreme civil court: and not certainly with the general assembly when acting in its judicial capacity as the supreme ecclesiastical court. That power resides in the legislature, to whom all along we have been addressing ourselves, since the commencement of the present question. We are not willing either to be overborne in our principles, or extinguished in our being, as a national establishment, by the court of session. We have gone more constitutionally to work. We have been knocking at the door of parliament, and seeking for adjustment there. We are still hopeful that they will decide this question otherwise than by an experiment, whether on our firmness, or on our fears: or by leaving us to the war of interdicts, and processes, and legal exactions,—a measure as unworthy of a wise and patriotic government, as if, on a misunderstanding between the civil and criminal courts of the country, they should be left to fight it out, as they may, till the one, in the exercise of their power, had fined and imprisoned *ad libitum*, all the lords of justiciary; or the other, in the exercise of theirs, had exiled or executed all the lords of session. Better than this surely, that the legislature should let us know at their own mouth, what their understanding

Parliament is the only constitutional umpire between the conflicting courts, and hence, the Church's appeal to parliament.

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Parliament has only to tell the Church what are to be the conditions of her establishment, and she will know how to act.

is of our footing as a national church: or, which is the same thing, on what terms they are willing to continue with us the endowments and privileges of an establishment,—and then shall we as distinctly understand, whether on the principles of a christian church, we can accept or should decline these terms."

Turning next to the plea that the suspended ministers had been acting according to their conscientious convictions of duty,—"we will not deny this," said Dr. Chalmers,—"and we have no interest in denying it. But I would ask, when we deposed Mr. Irving the other year for an alleged heresy, did we make our decision turn upon his conscience? or did we take evidence on the consciences of Mr. Maclean and Mr. Dow, when we took his license from the one and his parochial charge from the other? or were we arrested by the conscience or the conscientiousness of that holy and excellent person Mr. Campbell of Row, when we ejected him from his status as a minister of the church of Scotland? Sir, I know not what the inward principle of the ministers of Strathbogie may have been, nor will I attempt any conjecture on this subject: but I do know, that when forbidden by their ecclesiastical superiors to proceed any farther with Mr. Edwards, they took him upon trials: and when suspended from the functions of the sacred ministry by a commission of the general assembly, they continued to preach and to dispense the sacraments: that they called in the aid of the civil power to back them in the exclusion from their respective parishes of clergymen, appointed by the only competent court to fulfil the office which they were no longer competent to discharge: and

Dr. Chalmers deals with the plea of *conscience* put in for the Strathbogie ministers.

He cannot read their conscience, but he can read their acts.

lastly, as if to crown and consummate this whole disobedience,—as if to place the top-stone on the Babel of their proud and rebellious defiance, that, to the scandal and astonishment of all Scotland, and with a daring which I believe themselves would have shrunk from at the outset of their headlong career, they put forth their unlicensed hands on the dread work of ordination: and as if in solemn mockery of the church's most venerable forms, asked of the unhappy man who knelt before them, if he promised to submit himself willingly and humbly, in the spirit of meekness, to the admonitions of the brethren of the presbytery, and to be subject to them, and all other presbyteries and superior judicatories of this church: and got back from him an affirmative response,—along with the declaration that—'zeal for the honour of God, love to Jesus Christ, and desire of saving souls, were his great motives and chief inducements to enter into the functions of the holy ministry, and not worldly designs and interests.' Sir, I repeat I am not able to go into the depth and the mysteries of men's consciences: but this I am able to perceive, that if in heresy this plea were sustained, the church would be left without a creed: and that if in contumacy this plea were sustained, the church would be left without a government: both doctrine and discipline would be given to the winds, and our national church were bereft of all her virtue to uphold the christianity of the nation, and when thus helpless and degraded, be alike unable to correct the errors, however deadly, or to control the waywardness, however pernicious and perverse, of her own children."

Describes their proceedings.

The startling circumstances in which they laid on Mr. Edwards the ordination vows.

To admit their plea of conscience, would rob the Church of both her creed and her government.

CHAP. XIII.

Dr. Chalmers refers to the designs of those who have been pursuing the war of interdicts, &c.

Having adverted to the evident design of those who were harassing the church with endless interdicts and legal prosecutions, and who were using the Strathbogie ministers as mere tools to drive the church into a surrender of her principles, Dr. Chalmers, in this solemn and striking peroration, brought his address to a close :—

"Verily, it is high time that this should be put down; and that such as these, the disturbers of our ecclesiastical commonwealth, should be made to know it is a possible thing to carry their experiment a little too far, and to have made a wrong calculation on the chance of the Scottish clergy faltering from their principles, and the church at length giving way. Vain anticipation! The church of Scotland can never give way, and will sooner give up her existence as a national establishment, than give up her powers as a self-acting and self-regulating body, to what in her judgment is best for the honour of the Redeemer, and the interest of His kingdom upon earth. We see no other alternative. As these men do not humble themselves, their deposition is inevitable. The church of Scotland cannot tolerate, and what is more, it could not survive the scandal of quietly putting up with a delinquency so enormous as that into which these brethren have fallen. If the vindication of her outraged authority is to be, indeed, the precursor of her dissolution as a national church,—if, in the recent language of an amiable nobleman * within these walls, —if this is to be the last knell of the presbyterian

He warns those who are using these instruments of oppression, that they will not and cannot succeed.

* The Earl of Dalhousie.

establishment in Scotland, only let the legislature say so; and then let it be seen whether or not the church of our fathers be prepared to abjure her connection with the state,—rather than, robbed of all her respect, and so of all her usefulness, she will submit to be vilified into a thing of nought. Once more, this is a truly mysterious visitation which has come on the church of Scotland; and that not only in the midst of her rapid enlargement, but what is palpable to all, in the full career of her increasing usefulness. To speak of the department which I best know,—of our church extension,—and the noble rate at which it was making way among the families,—onward to the many thousands hitherto beyond the pale of gospel ministrations and gospel ordinances, and downward to the lowest depths of the people, giving thereby solidity and strength to the basis of the commonwealth,—when we look to the steady advancement of that great cause, and how, walking by successive footsteps, it reclaimed section after section of our outfield territory, accomplishing, we have no doubt, on a goodly number of human beings in each, the great and primary end of christianity,—the salvation of their souls; while on a still greater number it realized the secondary blessings of education, and regularity, and improved habits, both economical and moral; it was impossible to witness this progress—as it came actually and experimentally before our eyes—without the confident expectation of some such great and glorious result, whether in the reformed wickedness or reduced pauperism of the land, as might in a few years have overpowered the conviction of all, and enlisted every heart and every

The dark aspect of these events as a dispensation of Divine Providence.

The Church had been advancing in a course of prosperity and enlargement.

CHAP. XIII. hand on the side of an establishment which had thus acquitted itself as the most powerful dispenser of religion and virtue among the people; but these woeful differences have interrupted all, have distempered all, and at a time when so much could have been done by a conjunction between the piety of the church and the patriotism of the state, from the unexpected quarter of a collision between the civil and the ecclesiastical, a cruel arrest is laid on all this prosperity, and the vision of our fondest hopes is scattered into fragments. But if we want to get at the solution of this perplexity—the true explanation of a phenomenon otherwise so baffling — we must look farther and higher than to secondary causes, and onward and upward from the controversy which the church has in the world, to the controversy which God has with the church. It would soften the asperities of the earthly, the lower warfare, did we look and listen more to the wisdom that is from above, by which, while we are told to quit us like men and to be strong, we are also told that all our things should be done with charity. And certain it is that the wrath of man worketh not the righteousness of God,—yet, on the other hand, let us not forget, of this same wisdom from above, that it is first pure, then peaceable, or that giving the former the preferable claim to our regard, we must not forego purity for the sake of peace, we must not heal this unhappy breach by a sacrifice of principle; and when told, as we are, in plain language, that it will be better for the church if we let off the ministers of Strathbogie, we must refuse the bribe even though held out to us from the

The collision between the civil and ecclesiastical courts had laid an arrest on this prosperity.

It was well in these circumstances to recognize the hand of God.

high places of the world,—assured that if our ways please Him who is higher than them all, He will at length make our enemies to be at peace with us."

His favour will carry the Church through all.

The motion of Dr. Chalmers was in the following words: "The general assembly approve and confirm the sentence of the commission of date 18th November, 1840, sustaining the relevancy of the libel, and they now find the libel proven, with the exception of the charge therein last mentioned, founded upon the serving upon the commission a notarial protest, and they find Mr. John Cruickshank, minister of Glass, Mr. William Cowie, minister of Cairnie, Mr. William Allardyce, minister of Rhynie, Mr. William Masson, minister of Botriphnie, Mr. James Walker, minister of Huntly, Mr. James Thomson, minister of Keith, and Mr. James Alexander Cruikshank, minister of Mortlach, guilty of the offences therein charged against them respectively, under exception of the before mentioned charge, founded upon the serving the commission with the notarial protest aforesaid,—and the general assembly, in respect of these offences, charged each by itself, and involving deposition independent of the others, do hereby depose Mr. Cruickshank, &c., from the office of the holy ministry."

The motion of Dr. Chalmers.

The Rev. Mr. Bisset, of Bourtie, an ardent supporter of the seven ministers, who rose immediately after Dr. Chalmers sat down, had not the good fortune to command the attention of the house, — which speedily became so thin, that when he came to a close Dr. Cook intimated his unwillingness to proceed with so scanty an audience, and moved that they should adjourn till the evening. It had meanwhile been

The debate adjourned.

CHAP. XIII.

The motion of Dr. Chalmers restricted to finding the libel relevant and proven.

agreed—in accordance with suggestions which came from both sides of the house—that the latter part of the motion of Dr. Chalmers should be struck out, and that in the first instance the assembly should thus confine itself to the question of finding the libel relevant and proven, reserving the sentence for a separate and subsequent stage of the proceedings.

When the house met in the evening, Dr. Cook re-opened the discussion. Having declared it to be his conviction, that the sentence pointed at by Dr. Chalmers "would, although carried in this house by the vote, not of a majority merely, but of every person in it, be null and void," he proceeded as follows:—

Dr. Cook's speech.

"I must crave the indulgence of the assembly whilst I state, as clearly and as shortly as I can, the reasons which have led me to form this opinion, and upon which reasons it is that I rest the motion with which I mean to conclude, and to which I trust there will be a numerous and a firm adherence, whatever deliverance may here be given. It cannot admit of dispute, that there is a civil authority which, in what relates to the condition of the great body of the people, who enter into the social union, and submit to the administration of government, must be supreme,—that there cannot be two ultimate conflicting jurisdictions or legislatures;

His view of State supremacy.

and this is the dictate equally of reason and of revelation. If the case were otherwise, the foundation of society would soon be overturned. What is the language of scripture as to this point? 'Let every soul be subject to the higher powers.' 'The powers that be are ordained of God.' 'Ye must needs be subject, not only for wrath, but for conscience sake.' 'Who-

soever resisteth the power, resisteth the ordinance of God.' 'Put the people,' says St. Paul to Titus, 'in mind to be subject to principalities and powers, and to obey magistrates.' No precepts could be more explicit than these,—resting obedience to the civil power upon the foundation of sacred duty and of conscience. The confession of faith, the authoritative standard of the church of Scotland, inculcates the same views, founding them upon the passages in scripture to which I have referred. It is, we see by the confession, the duty of the people to obey the lawful command of magistrates, and to be subject to their authority for conscience sake. It is added, infidelity or difference of religion doth not make void the magistrate's just and legal authority, nor free the people from their due obedience to him, from which ecclesiastical persons are not exempted. It is from all this quite manifest, that no man, or body of men, can, without violation of duty, resist the just command of magistrates—that is, of the civil power; and hence it follows, that when such obedience is yielded, no class of persons is warranted to punish those who do yield it upon the ground that they have done so: and all the means employed to inflict punishment, whatever they may be in themselves, or abstractedly considered, are, when so employed or perverted, to be condemned."

CHAP. XIII.

The consequent duty of the Church to be subject.

Applies his general doctrine to the particular case.

This was indeed a summary way of settling the whole question in dispute. Dr. Cook was making evident progress in his erastian views. What his earlier statements in this controversy had put cautiously and indirectly, and so as that it could be extracted out of them in the way of inference alone,

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The erastianism of Dr. Cook was now full blown.

he got so far some years later as to lay down in the shape of an affirmative proposition. That proposition, however, as announced on all former occasions, professed to have certain limits. The usual mode of expressing it was this—that it was the duty of the ecclesiastical courts to give obedience to the decrees of the civil courts in all matters which these civil courts "declared to affect civil rights." Even in that shape, the doctrine was sweeping enough,—seeing that there are so few things a church can be called to do on earth that may not, by a little freedom of construction, be made to fall within the range of so elastic and comprehensive a category. The limit which it might seem at first sight to impose on this right of the civil courts to control the ecclesiastical, was like a portable fence, which might be put down only a step or two within the first field of the conterminous proprietor to-day, and the next at the farthest verge of his estate. But Dr. Cook had now made up his mind to absolve the courts of law from the inconvenience of working with this movable boundary altogether. He had now resolved the whole matter into that scripture text, "Let every soul be subject to the higher powers." This, of course, left no need and no room for any declaration on the part of these higher powers, or of their organs, the courts of law, as to what their decrees affected. It was not the subject, but the source of the decree, which gave it validity and force. If it emanated from that "civil authority which, in what relates to the condition of the great body of the people, who enter into the social union, and submit to the administration of government, *must be supreme*,"—there

It had formerly at least an apparent limit.

No appearance even of a limitation remains now.

was an end of the whole question. To resist it "was to resist the ordinance of God." Dr. Cook omitted to explain how, upon this principle, Shadrach, Meshach, and Abednego could be justified in disobeying the command of Nebuchadnezzar to fall down and worship the golden image,—or Daniel, in continuing to pray to the God of Israel in direct opposition to the decree of Darius,—or Peter and John, in persisting to preach the gospel of Christ in spite of the express prohibition of the Jewish sanhedrim.

Dr. Cook omitted to explain how, on his principle, the conduct of Daniel, &c. could be justified.

But, more extravagant and extraordinary still, not contented with propounding this doctrine as his own creed, he insisted, with great emphasis and formality, that it was the avowed creed of the church of Scotland; that Andrew Melville, in the second book of discipline, and Henderson, Gillespie, and Rutherford, in the Westminster confession, had themselves deliberately laid it down! The strangeness of the statement was, if possible, outdone by the strangeness of the evidence adduced to prove it. The passages on which Dr. Cook founded were these: the *first* from the second book of discipline,* that "diligence should be taken chiefly by the moderator, that only ecclesiastical things be handled in the assemblies, and that there be no meddling with anything pertaining to the civil jurisdiction;" and the *second* from the confession of faith,† that "synods and councils are to handle or conclude nothing but that which is ecclesiastical; and are not to intermeddle with civil affairs, which concern the commonwealth, unless by way of humble petition,

The extravagance of his assertion, that this gross erastianism was the doctrine of the Church of Scotland.

* Chap. vii., section 4th. † Chap. xxxi., section 5th.

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in cases extraordinary,—or by way of advice for satisfaction of conscience, if they be thereunto required of the civil magistrate"! It were a mere waste of words to shew that these passages simply prohibit the church courts from trespassing on the province of the state,—and that by the very act of doing so they as distinctly debar the state from intruding into the province of the church. They assume that the church has a domain of its own,—an assumption which Dr. Cook's theory destroys. But the able leader of the moderate party neither was nor could be ignorant that the passages now quoted are not the only ones to be found in the standards of the church, bearing upon the question in dispute. He knew, though he failed to notice the fact, that in the very chapter of the second book of discipline, from which the words above quoted are taken, it is expressly declared, that it belongs to the general assembly "to cause the ordinances, made by the assemblies, provincial, national, and general, to be kept and put in execution;" in other words, that it is a part of its duty to enforce obedience on the part of inferior church judicatories to the church's laws, and to the decrees of its supreme court, exactly as it was now doing in the case of the presbytery of Strathbogie; and further, that speaking of ministers, the same chapter goes on to say, that the "deposition also pertains" to the general assembly of them "that be given to schism or rebellion against the kirk;" the very prerogative which the general assembly of 1841 was now called to exercise. With respect again to the confession of faith, the same chapter to which Dr. Cook referred, claims for synods and councils those

The passages quoted from the standards, and their true import.

Correlative passages, which bring out a directly opposite doctrine from that of Dr. Cook.

very powers which it was the object of his argument to prove that the confession disallowed. "It belongeth," says the confession,* "to synods and councils, ministerially to determine controversies of faith and cases of conscience; to set down rules and directions for the better ordering of the public worship of God and government of his church; *to receive complaints in cases of mal-administration, and authoritatively to determine the same;* which decrees and determinations, if consonant to the word of God, are to be received with reverence and submission, not only for their agreement with the word, but also for the power whereby they are made, as being an ordinance of God appointed thereunto in His word."

CHAP. XIII.

The powers and functions of Church courts as defined by Confession of Faith.

If Dr. Cook could have made out his fundamental statement regarding the super-eminent jurisdiction of the civil power, the long and laborious disquisition into which he subsequently entered regarding the law of patronage, and the true meaning of non-intrusion, and the illegality of the veto-law, would have been altogether unnecessary. But failing, as he did, to show either from the standards of the church, or from statute law, any foundation whatever for his erastian views,—all that he said afterwards was wholly beside the question. Grant that the law of patronage, and the true meaning of non-intrusion had borne that construction which Dr. Cook put upon them,—the question still remained—What have the courts of law to do with the spiritual censures of the church?

Great part of his argument wholly irrelevant.

Dr. Cook summed up his speech in these words:—

* Chap. xxxi., section 3d.

CHAP. XIII. "The amount of all which I have endeavoured to establish is, that according to the law, both of the church and the state, the veto-act invaded civil rights; that on this account it could not have the proper and efficient authority which flows from ecclesiastical courts, these courts being prohibited by the church itself from interfering with matters civil; and that, consequently, the determination of the seven Strathbogie ministers not to be guided by that act, but by the injunctions of the supreme civil tribunals of the country, was in perfect conformity with their duty, and ought not to have subjected them to censure, far less should have occasioned their being served with a libel, for the purpose of their being deposed should the libel be proved, or the charges which it contains be admitted."

Dr. Cook traces all to the Veto-law.

Founding upon these views, Dr. Cook moved the following amendment:—"The general assembly having most maturely considered the libel, ordered by its commission in August to be served upon Messrs. John Cruickshank, &c., &c., and the different subsequent proceedings connected therewith, find that the whole originated from the said ministers having yielded obedience to the supreme civil tribunals of the kingdom in a matter, declared by these tribunals, to affect civil rights, with which the church requires that its judicatories shall not intermeddle,—such declaration, on the part of the civil tribunals, being, in this case, in perfect conformity with the law and practice of the church; and hence, considering it incompetent for the ecclesiastical courts to pass any sentence of censure in regard to the proceedings to which the said declara-

His motion.

tion relates,—set aside these proceedings, dismiss the libel, and declare that the ministers named in it, and against whom it was directed, are in the same situation, in all respects, as to their ministerial state and privileges, as if such libel had never been served, and such proceedings had never taken place."

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Proposes to acquit the seven ministers.

The amendment was seconded by Lord Seafield, who brought to the help of it the weight of his title and large posessions. Having, without a single remark, discharged this duty, his lordship was succeeded by the Rev. Mr. Cunningham. "A great deal,"—he began by observing, "of what has been said by the Rev. Doctor (Cook), must have been felt, by many of the members of the house, to have had little or no connection with the important subject now under discussion. The connection, apparently, even in the Rev. Doctor's own mind, was of a very distant and remote kind, betwixt the questions before them and the public documents and proceedings of the church to which he had referred. He had no intention of following the Rev. Doctor into the minute consideration of these points: first, on account of their remote connection with the subject before them; and in the second place, because he had already had opportunities of fully discussing these subjects through the press: and because he took the liberty of saying that what he had said through the press, yet waited for an answer." With the directness characteristic of the speaker, he went accordingly and at once into the heart of the subject. "The question before them was, whether or not the facts alleged to be done by these unfortunate men, in the libel which had been served upon them,

Speech in support of the motion of Dr. Chalmers of Rev. W. Cunningham.

States the question.

CHAP. XIII. and which was now under consideration,—facts about the truth of which there could be no dispute, for their truth and correctness were notorious, and had been judicially admitted by the persons libelled,—whether these facts, so admitted by themselves, constitute an ecclesiastical offence, a crime warranting the infliction of the highest ecclesiastical censure. This was the position he was called upon to occupy,—he held that these men had committed a crime, that they had been guilty of a heinous ecclesiastical offence,—so heinous as rightly to expose them to the highest censure of the church. He would first venture to assert, on the facts judicially admitted by these men, that there was abundant ground for maintaining that they had broken the laws of the church: secondly, that they had violated their ordination vows: and thirdly, that they had been guilty of a sin against the Lord Jesus Christ." The mention of the word *sin*, in connection with the conduct of the recusant ministers, called forth from among their supporters a vehement outcry,—an outcry, however, which served only to betray those inadequate views which many men hold in regard to the discipline and authority of the church of Christ. Instead of withdrawing, Mr. Cunningham calmly but firmly repeated his solemn asseveration:—"He never would," he said,—"as long as he was a member of a christian church, give his consent to the deposition of any man from the holy ministry, unless he could conclusively prove that the man had been guilty of a sin against the Lord Jesus Christ: and unless he was prepared to aver and conclusively to establish *that*, he could not consent to vote

His threefold charge against the suspended ministers.

The outcry raised at their conduct being called a sin: and Mr. C.'s reply to it.

for deposition: but if they were prepared both to aver and conclusively to prove it, then he believed that the sentence of deposition they were called this evening to pronounce, was a sentence that would be ratified in heaven." CHAP. XIII.

It had been alleged by their counsel at the bar, that the accused ministers ought to be pitied rather than blamed,—seeing that what they had done was not done ultroneously on their part, but was expressly required of them by the command of the courts of law. Mr. Cunningham "could not conceive it possible for any man who had read the libel seriously to maintain that position. They were not libelled for any acts done in compliance with the orders of the civil courts, but for purely voluntary acts on their own part,—the result of their own judgment that these acts were an important part of their duty. The libel charged, that after having been suspended from their ministerial office by their ecclesiastical superiors, they nevertheless continued to exercise the functions of the holy ministry and administer the ordinances of religion. That was not done by the order of the civil courts. They were never ordered to preach the gospel, to administer baptism, to dispense the sacrament of the Lord's supper. After they were suspended they were free to act as they pleased: they were free and voluntary agents: they were at liberty to consider the course they should adopt, and he presumed they did consider it: but whether they did or not they came to the conclusion, that in spite of this suspension they would continue to administer divine ordinances. The other leading charge in the libel was, that they did go to the

Mr. C. shows that the seven ministers were under no civil compulsion.

The civil court never required them to do what they were libelled for having done.

CHAP. XIII. civil courts and call upon them to exercise their civil authority for the reversal of the sentence of the church courts, exposing them to ecclesiastical censure. That too was purely a voluntary and deliberate act of their own. The civil courts did not call upon them to make such an application. * * * There was no order here from the civil courts, nor anything like an order: and therefore he took the liberty of saying, that the whole of the statement from the bar of the house was founded on an assumption,—that the acts charged against these men were performed in obedience to the orders of the civil courts,—which was an entire mistake of the whole bearings of the case, and could not be entertained by any man who had fairly read the libel upon which they were now called to judge."

The statement from the bar in their defence was founded on an entire mistake.

The speaker thereafter proceeded to state the grounds upon which the acts libelled were held to be offences meriting deposition. He quoted the act of assembly 1648, by which it is declared, that "if any suspended minister, during suspension, shall exercise any part of the ministerial calling, he shall be deposed." He also adverted to the act 1582, specified in the libel itself, which prohibited, under pain of the highest censures, any member or office-bearer of the church from bringing in the civil arm to arrest the course of discipline against him. He cited from Lauder's "Ancient Bishops" canons of the early church to show, that for a bishop to force himself into a church by the help of the civil power, and in opposition to the sentence of his ecclesiastical superiors, was an offence to be visited with excommunication. He referred to these primitive authorities to

Proves, *first*, that they had broken the laws of the Church.

shew, that the laws, upon that point, of the church of Scotland, were in accordance with the great principles of ecclesiastical jurisprudence, which had been established in the church at the earliest periods. On these grounds he clearly and conclusively showed, that in acting as they had done, they had broken the laws of the church.

Second, that they had broken their ordination vows.

But he had further affirmed, that by these acts they had broken their ordination vows. "At their ordination as ministers," said Mr. Cunningham, advancing to the second point, "they solemnly promised to be subject to the judicatories of this church, to maintain the unity of this church against error and schism, notwithstanding of whatsoever trouble or persecution may arise, and that they would follow no divisive courses from the present established doctrine, worship, discipline, and government of the church. Now there could not be a doubt, whatever these men felt of a sense of duty to the civil courts, that their conduct was not in accordance with the obligation they voluntarily and deliberately took at the time of their ordination. They were guilty of withdrawing the obedience which they vowed to render to the judicatories of the church and their ecclesiastical superiors, and had acted in a way very far from promoting the unity and peace of the church which they had solemnly pledged themselves to maintain." It was not possible to plead as against that ordination vow, any competing obligation,—for they were under none. They had received no counter commands to those of the church, from any quarter whatever. It might be said, indeed, that it was hard to suffer where they

CHAP. XIII. thought themselves in the right, and that they were entitled to protect, by an appeal to the civil law, what they conceived to be their just claims. The hardship, if it was one, resulted from restrictions under which they themselves had voluntarily come. They "applied for admission into a certain society, which imposed certain restrictions upon that admission. Such is the case even in many corporations, which, with perfect justice and equity, bind their members not to use any privileges they may receive by becoming members, as against the society into which they have been admitted. On this ground we hold, that these unfortunate men were called upon to renounce the society and its privileges as ministers of the church of Scotland, before they could go into the civil courts for such a purpose and act as they had done. They had no inherent and indefeasible right, peculiar to themselves, and apart from the obligations under which they came, in common with the other office-bearers of the church, by their ordination vows. If they used the privilege, and employed the right they received by coming under this obligation, they used them as against the church, which conferred the right and bestowed the privilege. Had they renounced the obligation, had they relinquished their status, and returned to the state of liberty,—they might have been entitled to adopt whatever measures they chose: but so long as they held the privilege, they could not righteously exercise it as against the church which conferred it, without a flagrant violation of the original compact by which they received it."

They were not entitled to use the privileges of the Church against the Church.

There was another point under this second branch

of his argument, which deserves to be noticed. All ministers of the established church, before entering on their office, are required to take, and do take the oath of allegiance. This oath was one of the pleas set up, not only to justify the conduct of the ministers, but to condemn their accusers. "What," said Mr. Cunningham, "is the oath of allegiance? The oath of allegiance is only this, that we shall be faithful and bear true allegiance to her majesty Queen Victoria: and the sum and substance of what is involved in it is this, that it is a solemn acknowledgment of Queen Victoria, in opposition to all pretenders, as the rightful sovereign of Great Britain, and pledge to give her all loyalty and obedience, to which, by the constitution of Great Britain, the rightful sovereign is entitled. This is the whole effect of the oath of allegiance; it brings us under new and additional obligations to render unto Cæsar the things that are Cæsar's: but it throws no light on the question, which things are Cæsar's, and which things are not. As an ecclesiastical court, they were perfectly independent of all interference in ecclesiastical matters, even under the oath of the sovereign, who has no more authority (in Scotland) to regulate these matters, than to levy taxes without the consent of parliament. There had been oaths in the history of the country, which might have afforded some plausible ground for the conduct of these men. The oaths of former times might have stood them in some stead,—the oath of 1662, for example, for refusing which, many of our forefathers suffered so much: and the infamous test of 1681, acknowledging the sovereign's supremacy in all causes ecclesiastical,

The plea in their defence derived from the oath of allegiance.

Exposition of that oath, and its utter inapplicability.

The oaths of the times of the Stewarts would have been more to the purpose.

CHAP. XIII. as well as civil. In these, some plausible ground might have been found: but at the revolution, the supremacy of the crown (in matters spiritual) was swept away: and from that time down to the age in which we live, no such claim as this had ever been put forth, nor any such power or prerogative been enjoyed with respect to Scotland, by sovereigns of Great Britain, or any officer holding his powers from the sovereign."

His *third* charge that they had sinned against Christ.

On the last point embraced in this luminous and powerful argument,—namely, that the seven ministers at the bar had, by the acts charged against them, sinned against Christ,—Mr. Cunningham spoke as follows:—"Let him remind the house of their voluntary and deliberate administration of ordinances when under suspension,—of their voluntary and deliberate appellation to the civil courts to remove the ecclesiastical censure imposed upon them, and to restore them to the exercise of their ministerial functions. Now, with respect to the first of these two leading charges, the administering ordinances when under a sentence of suspension, it is admitted that it is not necessarily and in all cases an act of direct sin against Christ, because the sentence of suspension might have been erroneously pronounced. It might have been a sentence pronounced *clave errante*;* and therefore it was possible they might have acted as they had done without having committed a sin against the Lord Jesus Christ, provided they had appealed to Christ on conscientious grounds against the sentence

The only way in which they could have escaped from this charge.

* By an erroneous use of the power of the keys.

of the church. Only on this understanding could they have been justified in disregarding the sentence of their ecclesiastical superiors. They might have taken an appeal to Christ against the office-bearers of the church, and then, *in foro conscientiæ* and *in foro Christi*, continued in the exercise of their ministerial functions. They did not carry their appeal to the Head of the church but to Cæsar, who could not interfere in the affairs of the church without usurping the prerogatives of its great living Head, who would not give His glory to another. Under the banner of an appeal to the civil power, to use an expression of our forefathers, they had continued in the exercise of their spiritual functions, and called in the civil power to suspend the ecclesiastical sentence,—on these grounds, their voluntary administration of ordinances when under suspension fell under the same head as their voluntary application to the civil court to suspend our sentence and to restore them to their functions. Now, this latter step was plainly a renunciation of the allegiance they owed to the Lord Jesus Christ as the only King and Head of His church; it was plainly a denial of His sole Headship and supremacy, and of the truth contained in the confession of faith and ratified by the law of the land, that Jesus Christ is King and Head of His church. It plainly involved a denial of the position that to His office-bearers, and to them alone, is committed the power of the keys. Would any one venture to deny that the court of session had assumed the power of the keys, and had thereby broken both the law of God and the law of the land, and been guilty of great sin? and of all this

Had they appealed from the sentence of the Church to Christ Himself,—it might have availed against this charge.

They appealed not to Christ but to Cæsar.

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Their conduct struck a blow at the very existence of the Church as a distinct society.

sin these men were the authors and originators. This was the spirit that characterized the whole of their conduct; and it made their offence neither more nor less than high treason against Jesus Christ, since it was a blow aimed at the very existence of the church as a distinct society, exercising functions and enjoying privileges derived from Him and to be regulated by His word."

To reply to this memorable speech the opponents of the motion of Dr. Chalmers had reserved Mr. Robertson of Ellon. Too acute a reasoner not to perceive the relevancy of the charge Mr. Cunningham had brought against the Strathbogie ministers of having sinned against Christ, and too manly, as well as too skilful, to sympathize with the indiscreet zeal which had tempted so many of his friends to raise a senseless outcry when that charge was made, Mr. Robertson was at pains to say, how "exceedingly vexed" he had been, "that when the last part of the subject (of Mr. Cunningham's speech) was mentioned there should have been any expression of feeling on his (Mr. Robertson's) side of the house, because he considered that this last point was worthy of the rev. gentleman, and because Mr. Cunningham must have made up his mind to this point before he could have agreed to support that sentence which was contemplated by the majority of the house. Mr. Cunningham was therefore bound, in honour, to make the statement and to give to the house the arguments on which, in his own conscience, he felt bound to support it." On the subject of the first branch of Mr. Cunningham's argument, that the Strathbogie ministers

Rev. Mr. Robertson of Ellon, replies to Mr. Cunningham.

Rebukes his own friends.

had broken the laws of the church, Mr. Robertson endeavoured to show that the laws referred to did not bear on the present case. Mr. Cunningham had alluded to the act of assembly 1582, and which was specified in the libel. That act prohibited any minister or office-bearer of the church from withdrawing from the ecclesiastical jurisdiction, and from making any appellation from the general assembly to the civil power with a view to stop the discipline of the church: it was an act passed immediately after the great struggle for her spiritual freedom, recorded in an earlier part of this work, which the church had to maintain with the king and the privy council in the case of Montgomery. Mr. Robertson was of opinion that this act was not applicable to a case like that of the Strathbogie ministers. "The church," he said, "had, previous to 1582, declared that the offices of bishop and archbishop should cease, and in doing so they did not innovate contrary to an act of parliament, but only acted in opposition to an understanding between the church and the government. The great charge against Montgomery was, that he had accepted of the office of a bishop, which had been denounced by the assembly and declared to be inconsistent with the word of God, and had called in the aid of the civil power to invest him with that abrogated office. This was the ground of the act of 1582, and it could not certainly be made to apply to the present case." Mr. Robertson could hardly be ignorant of the fact, that in the resistance the church was now offering to the encroachments of the civil courts, she denied that she was acting in opposition to any law or to any

His answer to Mr. C.'s first charge.

The case of Montgomery and the act 1582.

CHAP. XIII. understanding between the church and the government. When the church passed the veto act in 1834, she was regulating a matter spiritual as certainly as when in 1580 she was condemning the prelatic office. Mr. Robertson said, that the sanction which the convention of Leith had given to that office was tantamount to a certain "understanding" between the church and the state that the prelatic office was to be allowed. Be this as it may, it is unquestionable there was no such understanding either then or in 1834, that the civil power should be held competent to set aside the spiritual sentences of the church,—or, that the church should be held bound to take orders in matters spiritual from the courts of law. If, therefore, the act 1582 was applicable to a case like Montgomery's, it was still more clearly applicable to a case like that of the Strathbogie ministers. Montgomery was condemned for going to the civil power to get himself maintained in an office disallowed by the church,—and this, although, as Mr. Robertson said, the church had, by the convention of Leith, given the state ground for understanding that it would permit that office to continue. The Strathbogie ministers, on the other hand, were now on their trial for going to the civil power to maintain them in offices which the church had forbidden them to exercise, and concerning which offices she had not only given no understanding to the state that they were to be bestowed, or suspended, or taken away at the state's pleasure, but concerning which the state itself had declared, by statute, that the church's right to dispose of these offices was absolutely and entirely within her

Entire failure of the argument.

The argument turned against the Strathbogie ministers.

own control, as being a privilege "granted by God to the spiritual office-bearers of His church."

Mr. Robertson refused, in arguing the case, to confine himself to the matters embodied in the libel. He insisted on going back "to the original cause of the proceedings" against the Strathbogie ministers. In doing so he had, of course, to meet the question—Had the courts of law a right to compel ordination? He was not prepared to go quite so far as to answer that question with a direct affirmative. On the contrary, he made the important, and for his purpose, fatal admission, that, "if the (civil) court ordered the church to ordain a man, contrary to the conscientious conviction of the presbytery concerned, then the church could not agree to yield." It was contrary to the "conscientious conviction," not of an inferior church judicatory, but of the general assembly, that the order of the civil court to proceed with the trials and settlement of Mr. Edwards should be obeyed; and it was in defiance of an express order, founded upon that conviction, and issued by the assembly, that the Strathbogie ministers acted as they had done. To get over the difficulty involved in his own admission, Mr. Robertson drew a distinction between a decree to ordain the presentee, and a decree to take him on trials. "All that the courts can do," he said, "is to order that the presbytery shall, in a christian manner, take the presentee on trials; and it is only after the presbytery is satisfied with his qualifications, that the civil law can order them to proceed to his admission or induction." But if a presentee cannot be inducted without being ordained, what is

Mr. Robertson goes back to the original cause of these proceedings.

Admits the Church might refuse to obey a civil decree to ordain.

Attempts to obviate the difficulty involved in his admission.

CHAP. XIII. the difference between an order by the civil courts to induct, which Mr. Robertson seemed to think would be binding, and an order to ordain, which he admitted the church might refuse to obey? Mr. Robertson's argument upon this point was not worthy of a mind like his,—and served only to show to what straits he was reduced in pleading this case. "An idea," he said, "seemed to have gone abroad that, as there was a spiritual part in this act of induction, the church could neither receive nor act on an order from the civil courts. In the arguments at the bar of the house, there was one simple argument adduced, which not one of the reverend gentlemen opposite had attempted to grapple with. The counsel had referred them to the confession of faith, where it was said the civil magistrate—he cared not whether the civil magistrate here were the crown, or the legislature, or the court of session—the civil magistrate had the power to call synods, and to be present at them: and if he had the power to call courts of the church, he had the power also to bring the members together, and to lay before them such matters as he thought to be for the good of the church. If, therefore, it were admitted that the civil magistrate had the power to call the church courts to meet, and to consider the business laid before them, he would ask if any church court could be constituted without prayer? Without being constituted by prayer, there was no court,—the law says nothing about prayer, that was a spiritual act, and yet the civil magistrate had power to call synods. He could bring them together to act for the good of the church,—and there they must, before they could con-

Mr. Robertson repeats an absurd argument used at the bar.

The civil magistrate has power to call synods, and therefore to require them to pray!

sider what was required of them, take a spiritual step —a step as spiritual as ordination!" That is to say, because the church allows it to be competent to the civil magistrate to call a synod of the church in order to lay before it some matter touching which he may desire to have advice, or to which he may wish to direct the attention of the church,—and because the synod cannot, according to its own rules, as a court of Christ, meet without asking divine direction, —*therefore* the courts of law are competent and entitled to issue orders upon the courts of the church, requiring them, not simply to deliberate on a certain matter proposed respectfully for their consideration, but to carry the sentences of the civil courts into execution, however undeniably spiritual may be the matters which these sentences involve. Mr. Robertson's reasoning, though often more specious than solid, seldom furnished so perfect a specimen of the *non-sequitur* as this. Not only do the premises, even as these are stated by Mr. Robertson, involve no such conclusion as the one which he founded on them, but the premises themselves are full of assumptions at variance with facts. The power of the civil magistrate, in the calling of synods, was never sanctioned by the church in the broad and unqualified form in which it is laid down in the chapter of the confession of faith to which Mr. Robertson referred. In the act of assembly 1647, approving the confession of faith, the chapter in question is singled out for the very purpose of stating "that the assembly understandeth some parts of the second article" of that chapter "only of kirks not settled or constituted

CHAP. XIII.

Answer to this famous argument.

The Church guarded the doctrine of the civil magistrate's power of calling Synods.

CHAP. XIII. in point of government." Furthermore, the *civil magistrate* and the *civil court* are by no means synonymous terms. Within certain limits, the church allows to the supreme power of the state a right to call synods; but never and nowhere has it conceded such a right to a mere court of law—a court which, instead of being identical with the state, is simply a servant of the state, appointed to perform a certain definite and limited part of the state's business. Keeping in view these remarks upon the premises of this famous argument, the absurdity of its conclusion becomes still more apparent. As the clever hit of a counsel at the bar, it was tolerable enough,—but it was hardly deserving of a place in the reasoning of such a man as Mr. Robertson, in the judicial discussions of the general assembly.

To meet the charge that the seven ministers had broken their ordination vows, Mr. Robertson had nothing better to plead than the oath of allegiance. "It was true," he said, "that these gentlemen had come under the ordination vows; and he had no doubt that they took these vows honestly, and firmly determined to adhere to them in the spirit in which they were taken. But he must also advert to the fact that these gentlemen had previously taken the oath of allegiance to the constitution of the country, and were bound to adhere to that constitution as explained by the civil courts of the country; and, therefore, when the decrees of the civil courts were brought to them, they were bound to act upon them, not only as subject to those courts if they disobeyed them, but as true-hearted men, who were determined

Mr. Robertson on the oath of allegiance.

to stand by their oath of allegiance." Mr. Cunningham had, by anticipation, so effectually destroyed the argument founded on the oath of allegiance, that nothing but the extreme difficulty of finding materials out of which to construct a defence could have tempted Mr. Robertson to reproduce it. His statement upon the subject, if it proved anything at all, proved this,—that the oath of allegiance involved a recognition of the ecclesiastical supremacy of the crown. Because the seven ministers had taken that oath, they were bound, both as individual ministers and in their collective capacity as a church court, to give effect to the decrees of the courts of law,—and that without any qualification or reservation whatever. Such was the sweeping conclusion to which the task of defending the Strathbogie ministers had compelled Mr. Robertson to come. It is true, indeed, that nothing short of this could serve his purpose. To have restricted the obligation to obey the civil courts within certain limits would of necessity have been to raise the question,—Did the case under discussion fall within these limits? But because it was impossible to face that question, therefore were the defenders of the Strathbogie ministers driven to take up ground broad enough to carry the jurisdiction of the courts of law over the entire province of the church. Had the ecclesiastical supremacy of the crown in Scotland been confirmed, instead of being done away, by the revolution settlement and the treaty of union, Mr. Robertson's argument would have been both intelligible and valid. As matters actually stood, it served only to show what havoc the principles to which Mr. Robertson's party had committed them-

If Mr. R.'s argument proved anything, it proved that the oath of allegiance acknowledged the royal supremacy in matters spiritual.

CHAP. XIII.

selves were making of the constitutional liberties of the church of Scotland.

One other point in Mr. Cunningham's threefold charge against the Strathbogie ministers remained, and the attempt to meet it which Mr. Robertson made was, if possible, more unfortunate than any of his preceding efforts to vindicate their conduct. In accusing them of having sinned against Christ, Mr. Cunningham admitted that it would have enabled them to offer a relevant answer to this solemn charge, if, when the sentence of suspension was pronounced upon them by the supreme court of the church, they had made their appeal to the great Head of the church Himself,—instead of appealing, as they had done, to a civil tribunal to which Christ had given no authority to rule in His house. Mr. Robertson grasped somewhat too hastily at this admission, assumed that they had made such an appeal to the church's divine Head, and argued that therefore they were entitled to be held as having continued to exercise their ministry under the sanction of this spiritual appeal. Unhappily, however, the assumption was at variance with the facts of the case. Mr. Dunlop, in a brief reply to Mr. Robertson, referred to the terms of their own defences, in which they expressly declared, and took credit to themselves for it, that, "after being suspended, they discharged no duties till after the decision of the civil court, suspending the sentence" of the church. Out of their own mouths, therefore, was the argument of Mr. Robertson refuted and the charge of Mr. Cunningham confirmed. Upon a division, the motion of Dr. Chalmers, finding them guilty

Mr. Robertson assumes that the seven ministers had made their appeal to Christ.

Mr. Dunlop shows that the assumption is contradicted by the terms of their appeal to the civil tribunals.

as libelled, was carried by a majority of 97,—the numbers being, for his motion 222, and for Dr. Cook's amendment 125. CHAP. XIII.

At this stage of the proceedings it was intimated that the accused ministers had prepared a statement which they wished to submit to the assembly. By the permission of the house it was read by one of their number, Mr. Allardyce of Rhynie. It was a long and not very able document,—and went over much the same ground which their own supporters in the assembly had already traversed. There was nothing in it that threw additional light upon the case; and nothing of any kind that calls for notice, unless it were the cool complacency with which its authors took credit to themselves for having "done all in their power to avert the dangers which none can deny to exist,—which all must allow to be now impending over the established church." Along with their counsel they quitted the bar, and left the house so soon as the reading of their paper was concluded. Paper read and given in by the suspended ministers.

Dr. Chalmers had retired shortly after delivering his judgment,—the state of his health not permitting him to remain in the house during so lengthened a sitting. It was not generally known that he had returned, and after a brief pause, the Rev. Dr. P. M'Farlan rose to undertake, in his supposed absence, the painful duty of moving the sentence of deposition; but Dr. Chalmers felt too keenly the solemn responsibility which these proceedings involved to think of anything but the duty which he owed to his brethren and to the church. Little given as he was to mingle in ecclesiastical discussions, and shrinking as

CHAP. XIII. he did with all the sensitiveness of his generous nature from the ungrateful task before him, he had quietly resumed his place in an obscure corner of the church, and far on as it now was in the night he was waiting unnoticed amid the throng, to put himself in the very front of whatever dangers were to be incurred by vindicating, in this great crisis, the sacred principles and the insulted authority of the church. "In the absence of Dr. Chalmers," Dr. M'Farlan had begun to say, but hardly had the words escaped his lips when Dr. Chalmers rose,—and twenty voices exclaimed, "Dr. Chalmers is here." Advancing slowly to the table, he said, simply, but with great solemnity of manner, "that, after the judgment already come to by the house, he had no alternative but to move, that the seven ministers be deposed from the office of the holy ministry." The motion was seconded by the Rev. Dr. Brown of Langton. Mr. Clark of Inverness, and Mr. Brodie of Monimail, were in favour of the milder sentence of suspension, *sine die ;* a sentence which, in the circumstances, could hardly have failed to make a laughing-stock of the assembly. The seven ministers had been suspended already, and had treated the suspension with contempt. Dr. Cook made no counter-motion to that of Dr. Chalmers, but read and laid upon the table a formal "protest against the resolution of the general assembly to depose the seven ministers of the presbytery of Strathbogie." This disrespectful document, after repeating the now familiar doctrine of the moderate party, that the established church was bound "to be subject to the civil power in all matters declared by the supreme

Dr. Chalmers reappears in the Assembly to move the deposition.

Dr. Cook protests.

civil authorities of the country to affect temporal rights," proceeded to announce that the subscribers could not cease to regard the individuals who had been deposed as being still ministers, just as if the proceedings against them had never been instituted. When the paper containing this rebellious declaration was laid upon the table, a multitude of members rushed on the instant from the moderate side of the house, eager to subscribe it. Nothing could have been more unseemly than the disorder which, at a moment so solemn, this most unnecessary movement caused. Nor was it till these zealots in the cause of erastianism had been again and again reminded of a fact, perfectly well known, that they would have ample opportunities at the close of the meeting that night, or after the reading of the minutes on the following day, to attach their names to the protest,—that the temporary tumult was overcome. When silence had been at length obtained, the Rev. Dr. Brown, of Glasgow, was called upon to engage in prayer,—as is always done in the courts of the church of Scotland, before pronouncing the awfully solemn sentence of deposition. This impressive service concluded, the moderator rose, and "in the name, and by the authority of the Lord Jesus Christ, the alone King and Head of the church," deposed the seven ministers by name "from the office of the holy ministry," and "discharged them from exercising the same, or any part thereof, under pain of the highest censure of the church." Intimation of the sentence was at the same time appointed to be made in the usual form, from the pulpits of the seven ministers, and their churches were declared

Eagerness of the moderate party to subscribe this protest.

The sentence of deposition.

CHAP. XIII. vacant. The summer sun was already on the verge of the eastern sky, when the assembly adjourned; and the crowd, a great part of which for nearly four and twenty hours had thronged the church of St. Andrew's, issued forth into the quiet streets of the northern metropolis,—startling, by their hurrying footsteps and eager converse, many a sleeping citizen, as they passed, in dense groups, beneath his windows in quest of their own homes.

The protest of Dr. Cook considered by the House.

On the following day, Friday, the 27th of May, the protest of Dr. Cook and others, which had been allowed to lie on the table, was brought, by Mr. Dunlop, under the notice of the house. A copy of it had appeared that morning in a newspaper, commonly regarded as the organ, in matters ecclesiastical, of the moderate party in the church. As printed in that journal, the protest contained an intimation that those who subscribed it would not cease to hold ministerial communion with the deposed ministers. No such intimation, however, was embodied in the actual protest which Dr. Cook had given in. It was understood at the time that the original draft had contained such a clause, but that it had been struck out at the instance of some of the more cautious members of the party before it was signed. Even without that clause, the paper was still abundantly offensive,—but the majority of the assembly were as desirous to avoid any new collision, as a certain section of the minority seemed eager to court it.

Mr. Dunlop's speech on the subject.

"The giving in of such a declaration," said Mr. Dunlop, "is most unusual. Members of the house are entitled, in their reasons of dissent, to

relieve their conscientious scruples by testifying against proceedings of which they disapprove. This is the constitutional form of doing so; and I shall ever desire to preserve that freedom. No member, however, has a right to call on the house to receive such a declaration as this." He was not disposed, however, notwithstanding of its highly disrespectful character, to go further than to move that it be not received. "I rejoice," he continued, "very much to find that it does not go so far as I had supposed when it was read. I rejoice that the parties subscribing it, while they state their opinion, have not committed themselves to follow out in action that course which the declaration would seem to point at. I feel too, a confident assurance, that, on calm reflection, they will adopt no such course,—which would compel this house to resort to most painful measures, and would create a grievous breach and schism in this church. My chief ground of confidence that this will be so, is the conviction that a spirit from on high has, since we met, been poured out upon us,—so that the very subjects which, in their native tendency, might have been expected to produce irritation, and to increase the breach between us, have been over-ruled to bring us closer together, and to promote among us feelings of attachment and regard." * * * "Having this assurance, and making all allowance for the feelings which must have been created in the minds of our opponents by the sentence of yesterday, I desire to forbear from founding any proceedings on this declaration." The kindly and christian tone of Mr. Dunlop's remarks, evidently told upon some at least of the subscribers of the obnoxious

Expresses his hope that the protesters will abstain from this threatened rebellion.

Conciliating tone of Mr. Dunlop's address.

CHAP. XIII. paper, and Dr. Cook hastened to say that he would not oppose the motion for rejecting it. "No one," he said, "would deplore a schism more than he would, but though they felt themselves conscientiously bound to do what they did, they did not intend to act on the declaration at present; and he hoped nothing would occur to injure the good feeling at present existing, or to hasten that which all of them would deplore." Dr. Bryce, who seemed rather disappointed at this closing up of the expected breach, made an effort to re-open it, in which he was cordially seconded by Captain Elphinston Dalrymple. The house, however, was not disposed to indulge these gentlemen with a martyrdom which, even if granted, would, in their peculiar position, have cost them nothing,—and which, therefore, it needed no extraordinary effort of courage on their part to invite; and so the cloud which seemed big with tempest melted quietly away.

Dr. Cook's reply: seems to respond to Mr. Dunlop's appeal.

The condemnation of Mr. Edwards, the hero of the Marnoch intrusion, followed, as a matter of course, upon the condemnation of his intruders. The church could not recognize the validity of spiritual acts done in defiance of the sentence which had suspended the very men by whom they were performed, from the exercise of all ministerial functions. The ordination of Mr. Edwards, and his settlement as minister of the parish of Marnoch, were in these circumstances, necessarily null and void. The general assembly treated him accordingly, as being still nothing more than a simple licentiate of the church. It would have been altogether superfluous, immediately after the full discussion the whole subject had received

Case of Mr. Edwards.

in connection with the case of the Strathbogie ministers, to go over the same ground again, in disposing of that of Mr. Edwards. When his case was called, Mr. Cunningham, without a single remark, moved— "That the general assembly approve and confirm the sentence of the commission, finding the libel relevant and proven: find Mr. Edwards guilty of the charges libelled: deprive him of his license as a probationer: and declare him incapable of accepting a call from any congregation, or of admission into any office as a minister of this church: and prohibit and discharge all ministers of the church from employing him to preach in their pulpits." Dr. Hill moved as an amendment, to the effect that as Mr. Edwards had done nothing but what he was entitled to do—"the general assembly do not consider him in any respect censurable." The amendment was negatived without a division, and the motion of Mr. Cunningham adopted as the sentence of the court. The same evening the assembly agreed, at the request of the parishioners of Marnoch, to allow a call to be moderated in to Mr. Henry,—the individual whom the patrons had presented after their first presentee, Mr. Edwards, had been rejected by the church courts. The assembly in granting this request, made no pretensions to confer on Mr. Henry any right to the benefice: but the mere fact that the benefice had, for the present, been forfeited by the church, was no reason why the people should be left without a minister to care for their souls. It may be enough to add here, in passing, that Mr. Henry was soon after settled as minister of Marnoch, to the entire satisfaction of the parish,—and

Motion of Mr. Cunningham to deprive Mr. Edwards of his license.

Amendment of Dr. Hill negatived without a division.

The Assembly authorize the settlement of Mr. Henry as minister of Marnoch.

CHAP. XIII. that, as a minister of the Free church of Scotland, he is *de facto* the minister of the parish still.

The assembly, however, was not yet done with the case of Strathbogie. On the evening of Saturday, the 29th of May, the second day after the sentence of deposition had been pronounced, a scene occurred, which created very great excitement in the house,—and which painfully proved to what extremes the opponents of the independent jurisdiction of the church were now prepared to go, in carrying out their own erastian views. The house was in the midst of a discussion on the eldership. Allusion has been made in an earlier chapter to the labours of a committee on this subject, and to an important reform which on their recommendation had been effected in 1836. That committee had been subsequently continued from year to year, and it was another recommendation of theirs, which was at this moment under the consideration of the assembly. According to the then existing system, elders were chosen upon the close burgh system,—those already in office having the sole right of electing others. Instead of this, the committee proposed, that the members of the congregation should be empowered to choose a certain number,—and that from among these, the existing elders, in their collective capacity as a kirk session, should be entitled to select the number needed to fill up the vacant places. Several other plans had been suggested to the committee, but this was the one they had agreed to recommend to the assembly. Dr. Lee, principal clerk of assembly, was in the act of objecting to the recommendation of the committee, when the

A novel attempt made on the independence of the Assembly.

While the House is discussing the eldership, the moderator makes a communication to the Assembly.

moderator begged leave to interrupt him for a moment, that he might lay before the house an important communication he had that instant received. The communication in question, was a letter addressed to him as moderator, by Mr. Alexander Peterkin, agent for the Strathbogie ministers, intimating that there was a messenger-at-arms in attendance at the door of the house, prepared to serve the officials of the assembly with an interdict which had been issued that morning by the lord ordinary, one of the judges of the court of session, against the moderator, and all others, to prohibit them from carrying into effect the sentence of deposition, which the assembly had pronounced upon the seven ministers. Mr. Peterkin requested to know whether the doors of the house were to be kept closed, as they now were, against the messenger-at-arms.

It is announced that an agent and a messenger-at-arms are at the door demanding admittance.

"As this matter," said Mr. Dunlop, "concerned not only the freedom, the independence and the dignity of the church, and of this its supreme court, but also deeply concerned the dignity of their sovereign lady the queen, whose commissioner was supposed to be present with them, he conceived that they should have his Grace's personal presence before any answer was returned to a message such as had been sent to them; and therefore he proposed that a deputation should be sent to his grace, the commissioner, to acquaint him with the message." The propriety of this course was too obvious to be disputed; it was accordingly at once assented to, and a deputation consisting of Mr. Dunlop, Principal Dewar, and Mr. Buchan of Kelloe, was authorized to proceed to Holyrood Palace and to inform his Grace of what had occurred. The interdict was, of course,

A deputation sent to Holyrood to inform the Commissioner of the fact.

CHAP. XIII. in the agent's possession early in the day,—but he had not ventured to attempt to get it served during the forenoon session of the assembly, when the commissioner was actually in the house. In the eye of the law, the presence of the queen's commissioner was the same thing, as the presence of the sovereign herself. To have served an interdict in the face of the representative of the crown, would have been to charge the crown with having countenanced a violation of law. The legal adviser of the Strathbogie ministers, not being prepared to venture on this somewhat hazardous experiment, attempted to steal a march both upon the house and upon his Grace, by coming upon the assembly at the evening session, at which it was not usual for the commissioner to attend. An order which the door-keepers had previously received, to admit into the body of the house none but members, defeated this little legal stratagem; and kept the agent and the messenger outside. The debate on the eldership had, meanwhile, been resumed, and the business was taking its ordinary course, when the deputation returned and stated that the commissioner would immediately be present. Having, no doubt, been made aware of what was going on, Mr. Peterkin and the messenger disappeared,—not, however, till the former individual had, by letter, acquainted the moderator that the interdict had been left in the hands of the door-keeper, and that through him, he, Mr. Peterkin, would hold it to have been duly served upon the parties against whom it was directed.

What would have been implied by serving an interdict in presence of the Commissioner.

The agent and the messenger retire from the door before the Commissioner arrives.

The debate on the eldership was going on when the commissioner entered the assembly, and took his place

on the throne. By authority of the house the moderator publicly communicated to his Grace the circumstances which had taken place, and tendered to him the grateful acknowledgments of the assembly for his prompt attendance. "I shall at all times," said the commissioner, addressing the assembly, "endeavour to be present with you when you require my presence. It is my duty to do so; and in the exercise of that duty I trust that I shall not be found wanting, whether that duty call upon me to uphold the rights of the assembly, or to support and maintain the authority and prerogatives of the crown, if they shall be attempted to be infringed from any quarter whatever."

Speech of the Commissioner.

A long and eager discussion ensued, the object of which, on the side of the moderate party, was to draw forth an admission from the house that the interdict had been duly served. It was agreed that Mr. Peterkin, who had now come back without the messenger, should be allowed to lay on the table the papers which had been left in the hands of the doorkeeper; but the assembly declined to look at them, or to say anything about them whatever. Although this course sufficiently guarded the assembly from being held to acquiesce in this attempted outrage upon its independent authority as a spiritual court, the simpler and better way of accomplishing this end would, probably, have been to have followed the advice, given in a speech of eminent ability, by Mr. J. Clark Brodie, to take no notice at all of Mr. Peterkin's second letter to the moderator, but to go on with the business of the house as if nothing had occurred. In

The Assembly agrees to allow the agent to lay the papers he had brought on the table, but refuses to notice them.

CHAP. XIII. reference to the whole proceeding, however, it was obviously necessary that some step should be taken to mark its true character, and to protect the assembly from the repetition of any similar assault upon its constitutional liberty. Accordingly, when the assembly met on the following Monday, and before any other business was entered on, a series of resolutions which, meanwhile, had been carefully prepared, was submitted to the house by Mr. Candlish, in which the affair of the interdict was fully narrated, and the important fact was stated that such an attempt had only once before been made in the history of the church of Scotland,—and that then it was resisted and finally abandoned. The resolutions further characterized the attempt in question as "a flagrant violation of the privileges of this national church, as ratified by the constitution and laws of the united kingdom, which expressly secure to this church and to the supreme assembly thereof, exclusive jurisdiction in all spiritual matters, and especially in the deposition of ministers, and in whatsoever affects the government and discipline of the church." Finally, the resolutions went on to declare, that this assembly is called solemnly to protest against this "intrusion of the secular arm into the ecclesiastical province, and to represent this most alarming state of matters to the rulers and legislators of this great nation, on whom must rest the responsibility of upholding the established church in the full possession of all her scriptural and constitutional privileges; to make her majesty aware of this act so derogatory to her royal prerogative and disrespectful to her royal dignity; and that, with this view,

Resolutions adopted by the House in reference to this outrage.

The Assembly protests against it.

these resolutions ought to be transmitted to her majesty the queen, in council, and that the general assembly resolve accordingly." CHAP. XIII.

Dr. Cook said he must divide the house upon this question. "He would raise his voice against it, and argue against it, and protest against it, and never submit to any documents of this kind." The house did divide accordingly, and the resolutions were carried by upwards of two to one,—the numbers being 189 to 90. The debate on the eldership being at length fairly delivered from this interruption, was now resumed, and the recommendation of the committee was adopted by a majority of 89,—the numbers being 160 to 71. There were many other memorable incidents in the assembly of 1841; but the limits within which this history must be confined forbid their introduction. Let it suffice to say that, even in the midst of those painful embarrassments and anxieties that were now thickening around the church, never was the business of her supreme court gone through with greater exactness or more rigid fidelity. Her ordinary discipline, and all her missionary and educational enterprises were cared for as watchfully, and prosecuted as energetically, as if no cloud had darkened her firmament and no danger had lain across her path. What was perhaps more remarkable still, was the entire absence from the discussions of this assembly of everything like angry or acrimonious feeling. Seldom, if ever before, had questions been debated so well fitted by their exciting character to betray men into the use of strong language, and to embroil them with one another. Nothing, however, of this kind

Dr. Cook objects to the resolutions and divides the House. Resolutions carried by two to one.

Character and spirit of this Assembly.

CHAP. XIII. ensued. It seemed, indeed, abundantly evident that the nearer the disruption approached, those whose temporal interests were to be so seriously affected by that event were acquiring more solemn and sustaining views of their position and their responsibilities, and were getting, in consequence, more completely above the influence of those inferior considerations by which ecclesiastical controversies have been so often embittered, and the cause of truth injured and dishonoured. To nothing else but this, and to the divine presence and blessing therewith connected, could the fact be ascribed that the kindly and generous tone which Mr. Candlish gave, at their commencement, to the debates of this assembly, continued to pervade them to its close.

The approach of the disruption was solemnizing, not embittering, the feelings of those who were to make the sacrifice.

Not such was the tone in which the proceedings of the assembly were soon after commented on in the house of lords. On the 15th of June, the Earl of Aberdeen, when presenting a petition from the deposed ministers, took occasion to say, that "The presumption manifested by the general assembly in these proceedings was never equalled by the church of Rome, —tyranny such as was exhibited in this case would annihilate the liberties of the people of this country,— but it surely would not be tolerated in the present day." Lord Melbourne seemed rather to enjoy the anger of his political opponent, and instead of disputing the correctness of the account his lordship had given of the conduct of the assembly, he reminded the presbyterian earl, in a strain of mirthful sarcasm, "that they all knew the church of Scotland was equal in presumption to the church of Rome any day." The premier, however, was not disposed to signalize the

Lord Aberdeen's comments on the Assembly in House of Lords.

close of his ministry by instructing the lord advocate, as Lord Aberdeen urgently recommended, to take steps against the general assembly. In the course of the discussion which followed, the Marquis of Normanby, secretary of state for the home department, spoke of the courts of law and the courts of the church as co-ordinate authorities. Lord Aberdeen protested against the doctrine which this language involved; and Lord Brougham was at pains to inform the peers that the General Assembly was no more co-ordinate with the court of session than a master in chancery was co-ordinate with his chief, the lord chancellor of England! And these were the views upon the strength of which the claims of the church of Scotland were to be treated with scorn. The Marquis of Breadalbane and the Duke of Argyll strove to throw the oil of their mild and friendly interposition upon the troubled waters of the house; but the Strathbogie sympathizers were too wrathful to be appeased, and the poor church of Scotland and her unfortunate assembly were held up, to the close of the discussion, before the assembled peerage of England,—of whom it may, without offence, be affirmed that they knew very little of the real merits of the question in dispute, —as rebels against the law of the land.

CHAP. XIII

Lords Aberdeen and Brougham repudiate the idea that the civil and ecclesiastical courts are co-ordinate.

Church held up as a rebel against the law.

With such views and feelings prevailing in the high places of parliament, the hope of a satisfactory legislative settlement of the church's difficulties could not be otherwise than faint indeed. In circumstances so adverse, the Duke of Argyll, even if an opportunity of pressing his bill had been granted, could have had no reasonable prospect of getting it through the house

CHAP. XIII.

Approach of a change of ministry.

of lords. That opportunity, however, his Grace did not obtain. By one of those movements in the ever-shifting course of human affairs, which indicate to the devout and reflecting mind the presence and power of that unseen Hand that is continually controlling all events, an effectual arrest was laid, for the time at least, on the interposition of parliament. On the 5th of June the ministry, which, for a considerable period, had been visibly losing strength, was defeated by a majority of one, upon a vote of censure proposed by Sir Robert Peel. On the 22d of the same month parliament was dissolved,—the ministry still continuing in office, and waiting to receive from a new house of commons the verdict that should either re-establish their authority or take it away. In the struggle for power between the two great political parties in the state, which necessarily ensued at the elections, the Scottish church question became in many places, and especially in Scotland itself, the *cheval de battaille* of both parties alike. It was evidently, indeed, with no little discomfort and distrust that many of the candidates bestrode this somewhat restive and unmanageable charger. A few indeed, a very few, rode fearlessly like men who were at home in the saddle, while the greater number betrayed evident symptoms of alarm,—lest they should either be unhorsed altogether, or carried much farther than they had any inclination or intention to go.

Dissolution of parliament.

The elections and the Church question.

Immediately before the dissolution of parliament, the Duke of Argyll, accompanied by a small deputation from the church of Scotland, had held an interview on the subject of his Grace's bill with Sir Robert

Peel. The sentiments which, on that occasion, Sir Robert expressed in regard both to the bill and to the late proceedings of the general assembly, gave just alarm to the members of the deputation. Accordingly when it was found, shortly after, that almost everywhere in Scotland, Sir Robert Peel's political friends were striving to make it appear that the church's only hope of obtaining a satisfactory measure from parliament, was inseparably bound up with the triumph of the conservative candidates, it seemed to one of the members of the deputation above alluded to, to be no longer warrantable to conceal from those who were friendly to the church's claims, what were the actual views and intentions of the conservative chief. Mr. Dunlop, the individual in question, made accordingly such communications upon the subject, to private friends, as truth and duty seemed to him to require. The information so given, as was to have been expected, was not long in finding its way to the hustings and to the public journals, and shortly afterwards it drew forth a letter upon the subject from Sir Robert Peel to the Duke of Argyll. In the opening paragraph of this letter the writer complained that "very gross misrepresentations" had appeared in the Scotch newspapers of the sentiments which he had expressed at the interview on the affairs of the Scotch church. The letter proceeded thereupon to relate, "to the best of his recollection," what he had actually said. It amounted to this, that "he would not enter into an engagement to support the bill" of the Duke of Argyll, and that "even if he were to admit, which he could not, that the provisions of that bill were in

CHAP. XIII.

Dispute in reference to the sentiments of Sir Robert Peel.

Sir Robert Peel's letter to the Duke of Argyll on the subject.

CHAP. XIII.

His account of what he had said to the Duke, and the deputation from the Church.

themselves wholly unexceptionable, still that they were prospective only, and that he did not think the house of lords would consent merely to legislate for the future, if the general assembly should persist in its claim of authority to depose ministers of the church upon this ground, that these ministers had obeyed the law, as interpreted by the supreme court in Scotland, and by the house of lords upon an appeal preferred to that tribunal, at the instance of the church of Scotland."

As the comments of the newspapers to which Sir Robert Peel alluded, were founded on a letter sent to a private friend by Mr. Dunlop, that gentleman now felt himself called upon to come forward, and to vindicate the statement he had formerly made. "My account," he said, in a letter addressed to Sir Robert Peel, "of the sentiments expressed by you, as given in the letter, was, that these were in substance to the effect that no such bill as the duke's could be allowed to pass, and that any settlement must embody provisions for securing the submission of the church to the civil courts generally, and in particular for the restoration of the deposed ministers of Strathbogie." After showing what was implied in Sir Robert Peel's own report of the sentiments he had uttered, Mr. Dunlop remarked, that "so far from my account being a 'very gross misrepresentation' of these, the substance of it seems to me to be contained—though very much diluted—in your own statement. And I the more readily, therefore, assume, that these terms were not applied to that account, but to comments that may have been made upon it." Mr. Dunlop next pro-

Mr. Dunlop's letter on the same subject to Sir Robert Peel.

ceeded to give his own recollections of the interview, which he summed up in the following terms:—"A good deal of conversation ensued on these points, the whole tenor of which tended to impress the deputation with the conviction, that it was your opionion that no measure could pass, or ought to pass, which did not, on the one hand, settle the Strathbogie case, by the restoration of the deposed ministers,—and did not provide against the recurrence of similar cases or new conflicts in future, by securing the submission of the church to the civil courts." The subsequent conduct of Sir Robert Peel sufficiently proved that his sentiments had neither been misinterpreted nor misunderstood,—in so far at least as Mr. Dunlop was concerned. It is no more, indeed, than is due to Sir Robert Peel to state, that he never at any time, appears to have said or done anything that could possibly mislead the church, or its friends, as to his views. With the caution which belongs to his character, and which became his responsible position, he avoided for the most part any ultroneous or premature disclosure of his sentiments,—but in so far as these were at any time indicated, whether in personal interviews or in public communications, they were always hostile to the recognition both of the non-intrusion principle and of the spiritual freedom of the church. There is one expression that occurs in his letter to the Duke of Argyll, which is of itself enough to show how firmly rooted in his mind was the idea of the absolute supremacy over the church of the courts of law. He speaks of the fact that the appeal to the house of lords, in the Auchterarder case, had

Sir Robert Peel's after conduct proved that Mr. Dunlop was right.

Sir Robert Peel was always against the claims of the Church.

CHAP. XIII.

The gloss put by Sir R. Peel on the fact that the Church had appealed the Auchterarder case.

been "preferred at the instance of the church of Scotland,"—as if it implied something like bad faith on the part of the church in her subsequent proceedings towards the Strathbogie ministers. 'They had done nothing but what they were bound to do, by virtue of a decision pronounced on the church's own appeal,—and the church, instead of punishing them for obeying that decision, ought in honesty, as the appellant against whom it was given, to have obeyed it herself.' All this is not said in so many words by Sir Robert Peel, in his letter to the Duke of Argyll, but all this is very dextrously insinuated. It of course implies an entire misconception both of what the church did appeal, and of what the decision in question did in point of fact determine. It implies that the church appealed something more than the single point—Did the rejection of Mr. Young, in terms of the veto-law, carry the usual civil consequences of voiding his claim to the benefice, and of requiring the patron to present another man? and it further implies, that the judgment pronounced in the court of session, and affirmed by the house of lords, settled something more than

The true view of that fact.

that single point. Had Sir Robert Peel's view of the matter been correct, there would have been no need for the *second* Auchterarder case. The decision in that second case was not pronounced for twelve months after the date of his letter; and not till then was it found, by the civil courts, that the courts of the church could be compelled to take a presentee on trials, and to perform other spiritual acts, under the usual compulsitors of law. Even that second decision did not prove that the church courts were bound to have done

what the recusant ministers of Strathbogie did,— namely, to have proceeded with the trials and settlement of a presentee who had been formally set aside by a sentence of the supreme court of the church. What it did bind the church to do was something different. It bound her to appeal from what she regarded as the unconstitutional encroachment of the courts of law to the state itself. If the state, as represented by the legislature, should refuse upon such an appeal being made to it to alter what the civil courts had declared to be the law,—the church must then either bend her neck to the yoke of the civil supremacy, in matters spiritual, or surrender the immunities of her establishment, and break off altogether from her union with the civil power. Sir Robert Peel arrived at his conclusion, as to the church's duty, by a much shorter and more summary process,—but he did so, only by not adverting to the facts of the case. It is almost superfluous to add, that the assumption on which his insinuation was founded, proceeded on the additional mistake, that the Strathbogie ministers were deposed simply for obeying the judgment of the courts of law. It might have been quite justifiable to depose them for obeying, in matters spiritual, the decree of a civil tribunal, in defiance of the contrary decree of their ecclesiastical superiors: but that was not the ground on which they were in point of fact deposed. The libel against them did not contain one single reference to their having taken Mr. Edwards on trials. The offence charged against them was that of exercising, in defiance of the church, a ministry from which they had been sus-

The Church was not bound, even under the second Auchterarder decision, to submit to the civil courts: it was only bound to appeal against them to the State.

Sir Robert Peel's assumption founded on a mistake as to the real facts of the case.

CHAP. XIII. pended by the general assembly, and for applying to the civil power to stop the discipline of the church, and to hinder the church from performing her spiritual functions. All this must be sufficiently obvious to every one who has been at pains to acquaint himself with the real state of the question: and the circumstance that Sir Robert Peel proceeded so confidently on an entirely opposite supposition, serves only to show that he had never contemplated the church's position from any point of view but one. The absolute supremacy of the courts of law was evidently, in his mind, a first principle. We have seen that it was by assuming this to be the fact, and not by the construction of statutes, that the civil courts themselves reached their conclusion: and both his English church ideas, and his notions of political expediency, made that conclusion of very easy adoption to his mind. One thing seemed plain, that whatever his views of the Scottish church question might be, he was evidently destined to have, as an instrument, the disposal of it in his own hands. The elections sealed the fate of the whig ministry. The new parliament assembled on the 24th of August. An amendment upon the address in answer to the queen's speech, was moved in both houses,—an amendment, expressive of want of confidence in the existing government. That amendment was carried in the house of lords by a majority of 71: and in the house of commons by a majority of 92. On the 30th, the ministry resigned, and Sir Robert Peel was immediately intrusted with the formation of the new government,—that government, under whose auspices the blow was destined to be struck which

He looked at the Church's position from only one point of view.

The new parliament seals the fate of the whig ministry.

Sir R. Peel takes office 30th August, 1841.

terminated the ten years' conflict, and brought on the disruption. CHAP. XIII.

While these important movements were taking place in the political world, the state of things was every day assuming a more alarming aspect within the church itself. It will be remembered, that when the protest against the deposition of the Strathbogie ministers was discussed in the general assembly, Dr. Cook spoke of it simply as a declaration of the views held by those who had subscribed it,—adding that they did not intend to act upon it at present, and expressing the hope that "nothing would occur to injure the good feeling at present existing, or to hasten that which all of them would deplore." It will not be wondered at, that this statement should have been understood to mean, that there was to be, on the side of Dr. Cook and his friends, at least a cessation of hostilities: that nothing would be done on their part to provoke or encourage a fresh outbreak against the authority of the assembly, or to hinder an amicable adjustment of those questions which now divided, and threatened to dismember the church. For nearly two months after the rising of the assembly, this seemingly friendly attitude of the moderate party was believed to have been faithfully observed. At length, however, a document came to light, which painfully proved, that in resting upon this pleasing supposition, the assembly were leaning upon a broken reed that was already prepared to pierce their side. The document in question was a printed "statement for the presbytery of Strathbogie, and for the minority of the general assembly." It was dated, "London, June, 1841,"

Dr. Cook's implied promise of a truce.

A document comes to light which shows that the truce was hollow from the first.

CHAP. XIII. and must have been drawn up while the conciliatory tone of Dr. Cook's explanation was still sounding gratefully in the ears of those to whom it was addressed.

The subscribers of the document.

The statement was signed by Principal M'Farlan, Dr. Hill, Dr. Bryce, Mr. Grant of Leith, and Mr. Robertson of Ellon, — five of the most prominent members of the moderate party. Instead of repeating the language, which in their name, Dr. Cook used in the assembly,—instead of indicating an earnest desire that nothing might occur to widen the breach, or to precipitate the collision between them and their opponents,—the authors of the statement announced their determination to do what must render the breach irreparable, and expressly solicited the adoption of measures by the civil power which could have no other effect than to push matters to extremities at once. Speaking of the sentence pronounced upon the Strathbogie ministers, they said—"The minority and those that adhere to them, cannot, in conscience, submit to this decision: they cannot, in conscience, whatever may be the consequences, fail to act in opposition to it: as the conviction is indelibly impressed on their minds, that by such submission, or even such failure to resist, they would act in palpable violation of their oaths of allegiance and of their ordination vows." Why then did they not at once adopt this course and carry out this resolution? It was not, it is true, what Dr. Cook had led the assembly to look for,—but if conscience pressed them to adopt it, wherefore did they hesitate to do so? Was it from their unwillingness to aggravate the church's difficulties, by throwing new obstacles in the way of a peaceful settlement, and

Terms of the document. Resistance to the authority of the Church declared to be matter of conscience.

by embroiling them in new conflicts with their brethren? Nothing could have been more pleasing than to find, that this, which was undoubtedly the sentiment uttered openly in the assembly by Dr. Cook, had been also the sentiment secretly whispered in London in the ears of politicians and of men in power. Unhappily, however, the London statement admits of no such interpretation. While it tells the government that the subscribers mean to defy the sentence of the general assembly, it calls on the government to take measures to protect them from the consequences of this ecclesiastical rebellion. They were at pains to point out two ways, by one or other of which the object they had in view might be secured. The one of these ways was, by "a declaratory act of the legislature;" an act, that is, condemnatory of the assembly's proceedings, and giving to the principles and actings of those who were resisting the assembly's authority the sanction of the law of the land. There were objections, however, to this mode of proceeding, which appeared to the subscribers of the statement, to render its adoption of more than doubtful expediency. "There is reason to fear," said they, "that in the present agitated state of the church, its enactments (those, that is, of the declaratory act proposed), however correct and just in themselves, might prove, by their being suddenly presented to the public mind, the unhappy occasion, under the distorted views which, by certain parties, would infallibly be taken of them, of leading to schism, before they could be rightly understood." This seems, at least, to say that the subscribers of the statement were afraid no declara-

Dr. Cook's promise in the Assembly falsified by his own friends a few days afterwards in London.

The subscribers of the document seek protection from the State in their proposed rebellion against the Church.

They rather deprecate the passing of any declaratory act in their favour.

CHAP. XIII. tory act, suited to their purpose, could be framed that would not, of necessity, make so palpable an assertion of the erastian principle as no ingenuity could reconcile with the church's fundamental doctrine of the sole Headship and supremacy of Christ. There was, however, another alternative. Let the law stand as it is,—but let the executive government interpose. "An instruction to the law officers of the crown to maintain, in the civil courts, the cause of the ministers of Strathbogie, and of others who may be placed in similar circumstances,—and to *prosecute for breach of interdict, &c.*, those who may, in opposition to interdicts granted by the competent court, invade the rights of such parties, has also been thought of as a means of remedying the present evil." This, to say the least of it, was a harsh and revolting measure, and it would have been gratifying to find that it had been named only for the purpose of dissuading government from having recourse to it. They knew that their brethren, —such men as Dr. Chalmers, Dr. Gordon, Dr. Brown, Dr. Patrick M'Farlan,—men venerable for their years, and still more for their learning and piety, had not only broken the interdicts to which the "statement" referred, but would consider it as much a matter of conscience to break them again, as Peter and John considered it a matter of conscience to break the interdict of the rulers of the Jews. Was it possible they could invoke the aid of the civil power to harass with fines, or to immure in a jail, men like these,—men whose very names were at once the best bulwarks and the brightest ornaments of the church! If, indeed, "her majesty's government shall be of opinion, that

They would prefer the interposition of the executive power,—to order prosecution of those who break the civil court's interdicts.

What this application implied.

less stringent measures may be effectual for the accomplishment of the object in view, they"—the authors of the statement, were "not only willing, but most anxious, that such measures should have, in the first instance, a fair trial." But, on the other hand, they did not hesitate to say, that if the instruction to the law officers of the crown, above described, should be resolved on by the government, in preference to the expedient of passing a declaratory act, the minority of the general assembly "will have much reason to be satisfied, as by so significant an interposition on the part of government in support of the law, they will be assured of protection in the faithful and conscientious discharge of their duty." The whig government were not disposed to issue any such instructions,—and the majority of the assembly remained, as has been already mentioned, for a considerable time altogether unconscious of the mine which the leaders of the minority were so assiduously driving beneath their feet. The result of the elections had shown, as early as the middle of July, what the fate of the government must be; and in the now near prospect of the accession of Sir Robert Peel and Lord Aberdeen to power, it seemed as if the moderate party felt that the time had arrived for breaking the truce, and publicly renewing a war from which they had never desisted in private for even one single hour. Towards the close of the month of July, the insurrectionary movement began by Mr. Robertson of Ellon, Mr. Grant of Leith, and others, going to Strathbogie and holding ministerial communion with the deposed ministers, by assisting these deposed ministers to dispense the Lord's supper.

Ungenerous and unworthy spirit which their application breathes.

The prospect of Sir R. Peel's accession to power, seems to have encouraged them to proclaim open war with their ecclesiastical superiors.

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Meeting of the Commission, 11th August, 1841.

The commission of assembly met on the 11th of August in the aisle of St. Giles' church, Edinburgh, when this new act of defiance to the church's authority, committed by a body of her own ministers, was of necessity brought under review. The case was brought up by a report of the special commission, which had been entrusted by the general assembly with the supplying of divine ordinances to the parishes of the deposed ministers. Mr. Candlish, in opening the discussion, spoke of the deeply painful duty to which he was now called to address himself, and distinguished between the case of those ministers who had been guilty only of the irregularity of preaching without the sanction of the presbytery in the pulpits of the deposed ministers, and the far graver case of those who, by taking part with them in dispensing the sacrament of the Lord's supper, had treated them as if they were still undeposed, and as if the sentence

Speech of the Rev. Mr. Candlish.

of the assembly had been a thing of nought. He alluded to the bitter disappointment these proceedings had given to expectations that were fondly cherished, and which the statement of Dr. Cook at the assembly had warranted the church confidently to indulge. In the course of his striking and solemn address, he took occasion to notice the London statement, recently come to light, and the extraordinary proposition which

Comments on the lately discovered document.

it contained, to call "in the aid of the civil power to persecute the church,—to persecute the church by fine and imprisonment, and this too, by members of the same communion in the Lord Jesus Christ." He shewed that in going, as Mr. Robertson, Mr. Grant, and others had done, to hold ministerial fellowship with

the deposed ministers, they had been gratuitously and wantonly placing themselves in conflict with the discipline of the church. No civil court had required them to adopt this course. It was, therefore, as volunteers they were now rushing into this unnatural intestine war. "I am not," said Mr. Candlish, "one of those who are disposed to stretch authority very far,—not one-half so far as certain men in our church did during the last century. I, at least, am not an advocate for church power in any high and lordly sense, and far less would I say anything impeaching the full right of ministers and members of the church to the exercise of private judgment. And now let me just endeavour to show how a sentence, such as that pronounced upon the seven ministers of Strathbogie might be regarded by me, if I could put myself in the position of our brethren opposite. I shall assume that a sentence is pronounced by the church depriving of the office of the holy ministry certain individuals whom I still think innocent,—whom I still regard as holy men and to all intents and purposes ministers of Christ. I shall assume that the sentence pronounced by the church is a sentence wholly unrighteous and unconstitutional. I shall take this position. Now, I can easily conceive that this position might lead me to believe that I had the full liberty of holding communion with those individuals, but for one consideration, —the respect and reverence which I still owe to the authority of Christ in the decision of the office-bearers of the church, even when I considered that decision to be erroneous, unless it be so erroneous as to lead me to consider the church to be no longer a church at

Argument on the duty of obedience to the sentences of the Church.

The circumstances in which alone the sentence of the Church could warrantably be disregarded.

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all, but a synagogue of satan. But so long as I was prepared to admit that, however she had erred in the particular case, the church was still a church of Christ, and that her office-bearers were still entitled to exercise their authority in the name of Christ, I could not consider myself at liberty to set at defiance their sentence. This seems to me a full and broad shield for the liberty of private judgment. If I go further, as our brethren have done, I make my election between the communion of the deposed ministers and the communion of the church that deposed them; and if I feel myself bound to hold communion with the deposed ministers, it must be because I consider that the church has sinned so grievously as to be no longer a church of Christ but to have become a synagogue of satan. This is the plain ground which I take as a minister in such a case. * * * Our brethren may feel themselves bound to form a separate communion, but not upon any other ground than this, that they hold the church to have forfeited her title to be called a church of Christ, and therefore to have lost all title to their obedience." The motion which Mr. Candlish proposed was twofold. *First,* in order to vindicate the authority of the church, it instructed the several presbyteries to which the offending ministers belonged to take their conduct into consideration, and to deal with them according to the laws of the church; and *second,* it proposed that a "solemn remonstrance and warning" should be prepared and addressed to those ministers, for the purpose of pointing out the true nature of their conduct and the deadly injury which, if persisted in, it must needs inflict on

Those ministers who had held ministerial communion with the deposed brethren, were choosing *their* communion, and forsaking that of the Church.

Motion of Mr. Candlish in reference to those who had held ministerial communion with the deposed brethren.

the peace and unity of the church. After a lengthened discussion, in which the motion was supported by Mr. Buchan of Kelloe, Mr. Dunlop, and the Rev. Mr. Cunningham, and opposed by Dr. Cook and the Rev. Mr. Robertson of Ellon, it was adopted, upon a division, by a majority of 60 to 13. Upon the motion being carried, Dr. Cook gave in reasons of dissent, in which he and those who adhered to him signified their intention "to take such steps as may appear most effectual, for ascertaining from competent authority whether we who now dissent and they who concur with us, or they who continue to set at nought the law of the land and the decisions of the supreme civil courts, in what we esteem a civil right, are to be held by the legislature of the country as constituting the established church, and as entitled to the privileges and endowments conferred by statute on the ministers of that church."

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The motion carried by 60 to 13.

Dr. Cook and his friends dissent.

The resolution thus announced could not fail, if followed out, to bring the whole conflict to a final issue; and with the knowledge that was now possessed of the sentiments of the political chiefs of the party about to come into power, it was not difficult to conjecture what that issue must be. Fully appreciating the emergency which had thus arisen, those who guided the counsels of the church took measures, without a moment's delay, to prepare for it. A requisition was addressed to the moderator of the preceding assembly to summon a special meeting of commission, which was called accordingly, and appointed to be held on the 25th of the same month. When the day of meeting arrived, the multitude of ministers and

The dissentients threaten to appeal to parliament.

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Special meeting of Commission held in consequence. Large attendance of members.

elders, many of them from the most distant parts of the country, who had convened, sufficiently showed how thoroughly the crisis was understood. The assembly aisle, which though never used for the meetings of the assembly itself, was the place commonly occupied by the commission, proved on this occasion altogether inadequate. An adjournment took place accordingly; and as the crowd hurried through the streets to St. Luke's church, to which the sittings of the commission were transferred, the unwonted number of the ministers and elders, and the earnestness of their tone and manner, as they passed along, startled even the most careless onlookers, and gave sufficient indication that some great movement was at hand.

After the meeting had been re-constituted, Dr. Brunton rose. His great object in attending the commission, was to aid in preventing the threatened division. He took that opportunity of expressing his unqualified disapproval of the conduct of the Strathbogie ministers. "He made every allowance for their motives, and for the painful, and harrowing, and anomalous position in which they were placed; but he considered, that so long as they continued members of the establishment, it was their duty to obey the commands of their ecclesiastical superiors. He would do this, not only from the high and holy bond of his ordination vow, but also in obedience to the law of the land; for he maintained, that by the law constituting presbyterian government in the church, he was bound to obey his ecclesiastical superiors. If the ministers of Strathbogie had obeyed the commands of the church,

Rev. Dr. Brunton's speech. Condemns the Strathbogie ministers.

throwing the responsibility of their conduct upon the church, he was convinced the church would have exerted herself to the uttermost to save them from personal harm,—and the legislature would have seen the necessity of finding a cure for the evil, and for preventing a British subject from ever again being placed in that position." It will perhaps appear somewhat singular that, entertaining these views of the imperative obligation under which the Strathbogie ministers lay to yield obedience to the orders of the church, Dr. Brunton should nevertheless have been one of those who voted for Dr. Cook's motion in their favour, and who joined in his dissent against the sentence of the assembly by which their conduct was condemned. But, however this apparent inconsistency may be explained, there can be no reasonable doubt that, in what Dr. Brunton manfully expressed, very many others of the same party secretly concurred. Had he, and other influential members of that party, given forth these sentiments at the outset of the Strathbogie case, and refused to allow themselves to be dragged after men who were recklessly compromising the peace and safety of the church, the mischief might have been arrested at once, and the mutiny have been effectually put down. But now, when the matter had run its course, both the frank admissions and the friendly counsels of Dr. Brunton came unhappily too late. Harmony was not now to be restored by first condemning the Strathbogie ministers, and then setting over against their misconduct the errors of the church, in first enacting and then maintaining the veto-law.

Singular that with these views, Dr. Brunton should have voted in favour of these ministers in the preceding Assembly.

Dr. Brunton's statements now too late to be of any avail.

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Speech of Rev. Dr. P. M'Farlan.

The next speaker was the Rev. Dr. Patrick M'Farlan. "What are the circumstances," said he, after a brief exordium, "in which we are called together this day? A protest was taken at the last meeting of the commission by twelve individuals. Of these three were ministers of the gospel, one was a learned professor, and the remainder were elders of the church. They declared it to be their determination to take such steps as might appear to them effectual, for ascertaining, from competent authority, whether the protesters, and those who concur with them, or those who, they say, continue to set at nought the law of the land, and the decisions of the supreme court, are to be held as the established church of Scotland. This language is abundantly plain. We have no difficulty in understanding its meaning. Application is to be made to the legislature for an act of parliament, the object of which is to cast us out from the church, and to keep themselves in it,—to deprive the church of the pastoral labours and superintendence of her present clergymen, and to introduce into the church such as hold the principles to which I have referred, and those persons only. * * * Sir, at the reformation in Scotland, there was a very beautiful and simple definition given of the church of Christ in this realm. It was declared to consist of those ministers of the holy evangel, whom God in mercy had raised up in this land, and of all who might succeed them in that office, and of such as communicate with them in word and ordinances. But the act of parliament for which our reverend brethren—I fear I must call them our reverend opponents—are about to

What the threatened appeal to parliament means.

Original definition of the Reformed Church.

sue the legislature, is an act in which a definition of a very different kind is to be given. The definition which they seek to have declared will be, that the church consists of those only who will give submission in all matters, whether civil or ecclesiastical, to the secular tribunals,—who will lay the church prostrate at the feet of the courts of law; and who, in doing so, I hesitate not to say, will cast aside the great and fundamental principles of the church of Scotland—that Christ is her only King and Head, and that He has appointed her government in the hands of church-officers, distinct from the civil magistrate."

The act to be applied for by Dr. Cook and his friends, will have to make a new definition of the Church.

If these gentlemen obtained the act they were about to apply for, they would be bound in common consistency, as Dr. M'Farlan told them, to make the necessary alterations on the confession of faith, and the other standards of the church. He would not believe that the protesters had received any encouragement from the party about to come into power, to adopt this extravagant course. He could not believe any statesman in the kingdom would be prepared to listen to their preposterous demand. Dr. M'Farlan proceeded thereafter to review the whole course which the church had recently pursued, and showed that even the protesters themselves would, a few years before, have condemned and resisted those encroachments of the civil power which they were so eager to invoke, and to confirm by statute law. Speaking of the Strathbogie ministers, and of the alleged severity with which they had been treated, Dr. M'Farlan showed how utterly groundless was the charge. "They had shown them," he said, "the utmost indulgence down to the latest

Dr. M'Farlan reviews the proceedings of the Church.

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Pains that had been taken to make peace with the Strathbogie ministers.

moment. At the last general assembly, Dr. Buchanan of Glasgow and himself had an interview with Principal M'Farlan, Dr. Cook, and the (then) suspended brethren. They did not meet at the solicitation of these brethren, but understood that such a conference would be agreeable to them. He fully expected that they were disposed to make some concession at last, and thereby to enable them to postpone, if not altogether to avoid, deposition; but not one concession have they made during the whole course of their conduct, from the moment when they avowed their determination to obey the civil rather than the ecclesiastical courts, down to the present period, when they still persist in justifying all they have done."

Having noticed the peculiar time which Mr. Robertson, Mr. Grant, and the others had chosen for bidding defiance to the church by holding ministerial communion with men whom the general assembly had deposed,—"the truth is," said the speaker, "that the conservative party had obtained a majority in the present parliament, and there might be reason to believe that the new government would be favourable to their views. The plan was to force the majority to yield by terror; but neither terror nor any other influence would drive him from the position he occupied. Their opponents talked of having yielded to the call of conscience. They speak of conscience; Mr. Grant speaks of our "prating about conscience," and told them it was in obedience to conscience he and his associates were called upon to unite with the seven deposed ministers. If they had said they had felt bound, in honour, to sympathize with them, he

Exposes the true theory of this movement of the moderate party.

could have understood their meaning; but to say that they were urged on by conscience to encourage them in their rebellion against the church of Scotland is, indeed, an extraordinary thing, and makes a most extraordinary demand on the charity and credulity of the people to whom it is addressed." CHAP. XIII.

After an earnest and eloquent appeal to the elders and members of the church to stand in this great crisis by those who were vindicating principles dear to their martyred forefathers, and which were still the best heritage and the chiefest glory of their children; he concluded an address of surpassing felicity, and force, and solemnity, in these words:—"If we shrink, we are done. If we depart from principle, there is no hope for us; we shall neither propitiate men in power, nor gain the respect of the country. Let us trust in God, who has been the protection of the church in ages past,—in that divine Saviour to whom we profess allegiance as the great King and Head of His church, that the struggle in which we are now to be engaged shall issue in triumph; but if, in the mysterious providence of God, it should prove otherwise, we shall have the satisfaction, in looking back, to think that we stood forth in defence of sound scriptural principles,—and we shall never have cause to regret, though left houseless, and homeless, and without the means of support, that we preferred peace of conscience to all that is valuable to us in this world." The motion which Dr. M'Farlan submitted was in the form of a series of resolutions, in which, after a short preamble alluding to the proposed application of the protesters to the legislature, a succinct account was given of the view

The necessity for being firm in this great emergency.

The resolutions proposed by Dr. M'Farlan.

CHAP. XIII. which the church took of her spiritual jurisdiction, of the use she had made of it, and of the utter subversion of it which the protesters were seeking to accomplish. The resolutions further proposed, for the sake of amity and peace, that a friendly conference should be held with the protesters, with a view, if possible, to dissuade them from the course on which they were entering; and, at the same time, in order to prepare for the worst, appointed a large committee, with instructions to bring "the principles and privileges of this church, as well as the dangers that may threaten us, before the government, the legislature, and the country at large, by deputations, public statements, meetings, and such other means as may appear expedient."

Measures appointed to be taken under Dr. M'Farlan's resolutions.

The motion of Dr. M'Farlan was seconded by the Rev. Dr. Brewster of Craig, a man not more distinguished for his sound judgment, accurate learning, and varied acquirements, than for his humble piety and unobtrusive modesty. Though one of the fathers of the church, this was the first time he had ever spoken in the commission, and in the general assembly his voice had never been heard at all. It was a strong sense of duty which alone compelled him to come forward and to take part with his brethren in meeting this great emergency of their affairs. He came there "to express his willingness to share all the risk and responsibility, which might be attendant on the measures by which they were struggling to carry out the principle of non-intrusion, and the spiritual independence of the church. By slow degrees, and by wary steps, he had reached his pre-

The Rev. Mr. Brewster of Craig's speech, in support of the resolutions.

sent conviction regarding these principles, adherence to which was essential to their existence as a church of Christ." The occasion was pre-eminently one when "days should speak and multitude of years should teach wisdom;" and accordingly another venerable father, the illustrious Chalmers, was the next who rose. It was not so much to argue as simply to give his testimony, that he had come to the commission. "Our solemn duty, I feel it powerfully, our solemn duty is to do all that in us lies for averting this catastrophe. * * And heaven forbid that we should hasten it by any indiscretion, and far less by any disrespect or deed of violence on our part. These charges may be laid, and indeed already have been laid, against us, merely because we deem our principles of higher force than aught that relates to our private or personal interests. This we cannot help, and we must not, we dare not, and we will not try to help it, even though the powers which first conferred her temporal privileges and distinctions upon the church should now be pleased to recall them, and we should be declared to have forfeited, at their hands, the title and the privilege of the established church of Scotland. We will not resign the higher title of the church of Christ,—nor will we quit our ancient hold on the name and national appellative of the church of our own beloved land. God, the same God who turneth the hearts of men whithersoever He will, can make even our enemies to be at peace with us; He can awaken in their giant strength the principles and recollections of other days: and the country will tell, amidst the fragments of a system which is disjointed

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Speech of Dr. Chalmers.

The Church cannot yield even if she should lose her establishment.

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and broken up, which is the likest to the church of their fathers, when, with or without an endowment, we are known and read of all men as a non-erastian church." He concluded by saying—in reference to their opponents among the great, in place and power —that he had spoken "not to stir up wrath, and as little to propitiate favour; but simply and altogether to open their eyes." But this, as the event proved, was a task which even Dr. Chalmers was unable to perform. Truly there are none so blind as those who will not see. This eventful commission would seem as if it had been designed in providence to give timely warning to the rulers of the land of the danger of trifling any longer with the question of the Scottish church. To the parties, on the other hand, more immediately concerned in these proceedings, it was doubtless designed as a rehearsal for the great day of the disruption. It was a training, wisely and graciously appointed, to familiarize them with the parts which they were then, in right earnest, to be called to perform. In a commission of nearly two hundred members, drawn together from all parts of the church, the resolutions moved by Dr. M'Farlan were adopted with only two dissenting voices. This result, and the solemnity with which it had been arrived at, could not fail to stagger the protesters in their purpose. They must now have seen, and those who, out of sight, were urging them on, must have seen it as well, that they had to deal with men who had counted the cost; and if they still doubted in what direction the sympathies of the people would run when the hour of trial came, they had at least some materials for helping them to a judgment on that

He speaks not to stir up wrath, but to open men's eyes.

Resolutions carried with only two dissenting voices.

point, placed before them within a few hours after the commission rose. A public meeting took place that evening in St. Cuthbert's church,—a meeting the most important and influential by far which, in the whole course of the conflict, had yet been held. The lower part of the church was set apart exclusively for ministers and elders, of whom not fewer than 1200 were crowded into it. The rest of the church was opened to the general community, and its double galleries were thronged to suffocation, while multitudes, unable to gain admittance, clustered around the walls of the church. The speeches were worthy of the momentous occasion on which they were uttered. As a fitting specimen of what that evening produced, and in order to avoid repetition, let a few sentences suffice from the opening address of the chairman, the Rev. Dr. Gordon,—an address whose deep solemnity, and unstudied yet dignified simplicity, made it come home to every heart like the words of a martyr's confession. "Fathers and brethren," he said, "I cannot help repeating what was stated this forenoon by a very revered friend of mine as a motive to gratitude, that the very painful circumstances which have brought us to the present crisis have at the same time so simplified the great question at issue that I cannot conceive how any person of common understanding who gives his attention to it for one moment can now fail to perceive the real state of matters in regard to the church of Scotland. For a long time it was involved in all the tortuosities,—I cannot find a better word at the moment,—of legal questions; and I could well sympathize with many of our people who had neither

Public meeting the same evening in St. Cuthbert's Church. 1200 office-bearers of the Church present.

Dr. Gordon's opening address from the chair of the meeting.

CHAP. XIII. opportunity nor time for investigating those great principles on which the question rests, if they did not understand the bearings of it. But now it has come to this, and no man can fail to see it, that if we define the principles of the church as they have been recently laid down in certain documents and speeches, we must intrude ministers on all the parishes of Scotland; for if it can be in one, it can be in all,—that we are bound and astricted to intrude ministers without even the shadow of a call from the christian congregations over whom they are to be placed, and with whom the pastoral connection is to be formed. And more than that,—it has come to this, plainly and distinctly, that I, a minister of the church of Scotland, who have solemnly sworn before God, and as I shall answer to Him at the great day of judgment, that I believe in my heart and conscience that Christ is the great Head of the church, and that He has appointed office-bearers in it, distinct and apart from the civil magistrate, to whom He has committed the keys of His spiritual kingdom; who are to loose and to bind, to lay on and to take off spiritual and ecclesiastical censures:—it has come, I say, to this, that I am called upon either to renounce these principles or to renounce the privileges which I hold as an ordained minister of the Church of Scotland. I am called on to say whether I will, or will not, renounce this dogma,—whether I will declare that this article of the confession of faith is null and void,—an article which I cannot, I dare not relinquish, because I have sworn to maintain it. But I am told that in maintaining these principles I am acting in violation of the law of the land. Why, fathers and

The point to which matters have come.

He is called to say whether or not he will renounce a great article of the Confession of Faith.

brethren, I took the oath to maintain that article in the confession of faith with the perfect knowledge and sanction of the state; for the state had embodied that article in an act of parliament. And when I came forward before my people, and fell upon my bended knees and received the hands of my fathers and brethren upon my head, setting me apart to the office of the holy ministry, did the state, or did any servant of the state, interfere to say—I protest against such an act,—I protest against your taking such a pledge,—because, if you take it, you may at a future period traverse some of the findings of the courts of law. No such protest was taken against my ordination, and therefore I stand here an ordained minister of the church of Scotland, and declare that I took the oath to maintain the great principles for which we are now contending, with the perfect knowledge and sanction of the state itself. They may have changed their opinions: I have not changed mine."

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His ordination vows bind him to maintain that article.

This important meeting was followed up by others in all the chief places throughout Scotland. At one of these, held on the 17th of September, in the city of Glasgow, a letter was read from his Grace the (late) Duke of Argyll, who had been requested to take the chair. His absence from the meeting, the duke said, was due to considerations "of a private rather than a public nature, and that they in no way implied any disapproval on his part, of the principles which are now maintained by the church of Scotland, and to which he understood it was the object of the meeting to accord its public expression of support." "In these principles," continued his Grace, "more especially

Great meeting in Glasgow. Letter from the Duke of Argyll.

CHAP. XIII. that which asserts the freedom of the councils of the church, in matters ecclesiastical, from all civil control, I entirely concur; and I shall at all times be ready to state my conviction that they, upon the one hand, are no others than those which have marked her character since the reformation, and of which the constitution has guaranteed to her the possession; and that those upon the other, adopted by the courts of law and the minority of her own assembly, are no other than those which have been uniformly antithetical to hers, and are incompatible with the integrity of her established government."

These demonstrations deter the moderate party from proceeding with their threatened appeal.

The energy and promptitude with which the great body of the office-bearers and members of the church thus responded to the call of the commission of assembly,—and the determination that was evinced to face, without flinching, all the hazards of the threatened appeal to parliament, seem to have daunted the courage of the protesters, and the appeal was heard of no more. But while the moderate party shrunk from that bolder and more manly course, it was only to pursue another more mischievous still, and better calculated to accomplish their design,—to multiply internal collisions, and in this way to throw additional, if not insurmountable, obstacles in the way of an amicable legislative settlement of the question. Such were the tactics which, with greater zeal than ever, they now pursued. It is, indeed, no more than justice to say, that as this policy originated with, so was it chiefly urged on, by the *ultras* of the moderate party. The sentiments which, on more than one occasion, Dr. Brunton, and a few others, publicly

The movement was chiefly the work of the *ultras* of moderatism.

expressed, and in which they so unequivocally indicated their disapprobation of the measures adopted by the extremer men of their party, were, no doubt, shared in by many more who lacked either the opportunity or the manliness to declare themselves upon this subject. Unfortunately, however, this dissatisfaction, whether existing in secret or breaking out at intervals in public, always gave way when the conduct which caused it came to be formally dealt with by the courts of the church. Although the plots against ecclesiastical authority, hatched in Aberdeenshire, were such as could have been hatched, perhaps, nowhere else in the church, the moderate party never failed to support and defend them in the general assembly. So early as 1833, Dr. M'Crie, as was noticed in an early part of this work, drew a picture of the hereditary moderatism of Aberdeenshire, and as the conflict proceeded, every day gave clearer and more abundant evidence that the artist knew his men. The Strathbogie case was not the only confirmation of the accuracy of his graphic sketch. Another, and one if possible yet more decisive, was now preparing in the adjacent presbytery of Garioch. The parish of Culsalmond, in that presbytery, having for its minister an incumbent incapable, through age and other infirmities, of discharging the duties of his office, Sir John Forbes, the patron, issued a presentation in favour of a person of the name of Middleton, to be assistant and successor. This person, a man of sixty years of age, had been already officiating as an interim assistant under the nomination of the minister, and had proved extremely unacceptable to the people. Having had the presen-

Many of the moderate party disapproved of the *address*, but still supported them in all their extremest proceedings.

The Culsalmond case: another Marnoch.

CHAP. XIII. tation in his favour laid before them, the presbytery agreed to proceed according to the forms of the act of assembly 1834. The day for the moderation of the call, the 28th of October, arrived in due course, and although great influence was used on the part of some of those who had influence with the tenantry of the parish to obtain signatures to the call, only forty-five in a parish of a thousand souls could be induced to put their names to the document. Of the one hundred and thirty-nine male heads of families, to whom the privilege of dissenting belonged, eighty-nine exercised it against the presentee. In these circumstances the duty of the presbytery was plain. In every case of a disputed settlement, it was at that time the standing order of the church, that proceedings should be stopped, and a report made to the general assembly. Of this course no party could reasonably complain. The church was in the act of negotiating with the state for such an alteration of the law as would bring the civil into harmony with the ecclesiastical law, in all matters affecting the settlement of ministers. No order had been issued by any civil tribunal calling upon the presbytery of Garioch to disregard the express instructions of the church, and to proceed with Mr. Middleton's settlement: for such an order no application had been ever made. To say that the presbytery did resolve, in these circumstances, to proceed notwithstanding, were, however, to tell only a small part of the outrage of which they were guilty. The dissentient parishioners had, by their agent, protested and appealed to the superior church courts, and so had a minority of the members

The call, at Culsalmond, 28th October, 1841. The presentee vetoed.

Presbytery resolve to proceed, notwithstanding, to the settlement.

of presbytery. Till these protests and appeals were heard and disposed of, it was contrary to both the law and practice of the church to proceed with the settlement. But this was not all. Prepared, though the presbytery were, to overleap the veto-law, there was yet another obstacle behind, which the moderate party themselves had always professed to regard as insuperable. The agent of a body of the parishioners had tendered "special objections" against the presentee. The motion of Dr. Cook, in the assembly of 1834, and in that of 1839, recognized such objections as competent and legal,—and no one could deny that those offered in the case of Mr. Middleton were both relevant and important. They charged him with the neglect of family worship, with attending to secular pursuits on the Lord's day, with inattention to clerical duty, with carelessness in admitting persons to receive the sacraments, with cold unspiritual preaching,—matters which it was the solemn and bounden duty of the presbytery to investigate. Not only, however, did the presbytery refuse to entertain these objections, but they refused to pay the least regard, either to the protest and appeal of the objectors upon the subject, or to the corresponding dissent and complaint of the minority of the presbytery itself. Trampling in the dust, not only the veto-law, but every other law and usage that stood in the way of the intrusion of Mr. Middleton, they resolved to go on,—and on the 11th of November, they accordingly met again in the parish of Culsalmond, to consummate this wanton and reckless violation of the rules and authority of the church. Again, as in the case of Marnoch, "it was winter."

The Presbytery disregard protests and appeals of the parties in the case: special objections, &c. &c.

Serious nature of the special objections against this presentee.

Presbytery meet to settle the presentee, Mr. Middleton, on 11th November.

CHAP. XIII. The stately Benachie looked down upon a deed, which if it lacked the purity, had at least all the coldness of the snowy mantle with which his broad shoulders were that day folded round. The sensation which the threatened proceedings of the presbytery had produced throughout that whole district of country, was sufficiently shown by the fact, that when the hour of meeting arrived, not fewer than two thousand people were found, regardless of the driving showers of sleet that swept across the fields, gathered in a dense mass around the parish church. The presbytery met in the manse, and the agent for the parishioners having, in vain, attempted to arrest the settlement, the presbytery, headed by the sheriff of the county, and supported by a body of constables, made their way towards the church. When the doors were opened, the rush into the edifice, of the assembled people, carried the entire corps, civil and ecclesiastical, helplessly along, and scattered its various members, without its being in any one's power to prevent it, hither and thither through the church. The scene that followed was such as might have been anticipated. The people were resolved that the offices and ordinances of religion should not be desecrated by being made the accompaniments of an act so disgraceful as that which the presbytery had assembled to perform. An attempt was made, indeed, to begin the services of the day, but it turned out that, though prepared to occupy the pulpit, they had forgotten the bible. The word of God could have had nothing else to do with such proceedings, than to condemn them,—and it was not therefore to be wondered at, that the sacred

Severity of the weather. A great crowd assembles notwithstanding.

The rush into the Church, and the confusion that follows.

volume had been left behind. The captain of police came, indeed, to the help of the intended preacher, by handing up a pocket bible, but the audience had no mind to listen to what they evidently accounted a mere mockery of sacred things, and after an hour spent, now by the sheriff, and now by the police, and now by the presbytery, with no other effect than to secure a display of "inimitable dumb show and noise," the united authorities made up their minds to return to the manse, and to do what they considered needful there. It is painful to have to record such scenes: the scandal which they involve is unfortunately not confined to those who cause it,—but always extends to religion itself. An onlooker well observed:—"It is not the least bitter result of forced settlements, that they displace reverent considerations of time and place from men's minds. The people assembled in the church evidently regarded the services about to be performed, as a mockery of religious rites, and only as a key to the stipend. In this light they considered them, and they acted accordingly."

The Presbytery had forgotten the Bible.

They find it impossible to proceed, and retire to the Manse.

What took place in the manse will be best understood by the following extract from an Aberdeen journal, whose able and everyway estimable editor* was present, and tells what he heard and saw:—

"The parties having proceeded to the manse, a long consultation ensued, during which we obtained admission to the lobby. At twenty minutes to two, Mr. Duguid Milne (agent for the presentee) came up and asked Mr. Mitchell (agent for the parishioners),

Description by an eye-witness of the proceedings in the Manse.

* Mr. Troup, then editor of the Aberdeen Banner.

CHAP. XIII. before members of presbytery, 'Have you anything to say to the presbytery, or what wait you for?' Mr. Mitchell replied—'I am here as agent for the dissentients, to be present at any settlement.' Mr. Duguid Milne—'Then you may retire, as we have private business to transact.' Mr. Mitchell—'Am I then to understand that the presbytery are on private business?' The Rev. Mr. Bisset, of Bourtie, (a prominent member of the presbytery)—'We are here on private business just now.'

Agent for the people excluded, on the plea that the Presbytery is engaged with private business.

"And so Mr. Mitchell and Mr. Anderson (a notary whom Mr. Mitchell had along with him, to attest what he did) were turned out, the doors closed and bolted, before witnesses. A few minutes after, we asked admission, as reporter for the press, and received the same answer. At ten minutes past two, Mr. Mitchell again demanded admission, and was again refused. At twenty minutes past two, he was admitted, upon a demand made to know if any settlement had taken place, into the presbytery room; and he put the question if a settlement had taken place to the moderator.

"The court was cleared, in order to deliberate on an answer to the question; and after waiting for half an hour, in the course of which he made repeated applications for admission, Mr. Mitchell, along with a notary, again entered the room,—demanding to be informed if a settlement had taken place, because he had a protest to tender against it.

When the agent is at length admitted, he is told the Presbytery is dissolved.

"The MODERATOR—'The presbytery is dissolved.'

"Mr. MITCHELL—'Then I put my protest into the hands of the clerk, on the supposition that a settlement has occurred.'

"The CLERK—'The court is dissolved.'

Agent hands in a protest.

"Mr. ANDERSON—'I hand you this protest, as a notary public.' (The protest was in the name of male heads of families,—and declared, on the grounds stated in the previous protest, the settlement to be null and void.)

The members of Presbytery hastily retire.

"A MEMBER OF COURT to the Clerk—'Don't take the protest:' and the members rapidly collected their hats and retreated,—during which Mr. Mitchell read part of the protest, while the clerk was collecting his books. As this functionary retired, Mr. Anderson put the protest into his hands, which he indignantly flung from him,—in contempt, as we suppose, of the civil power,—and hastily left the room. It is asserted that a settlement did take place, and that a sermon was preached. It may be so, but there was no bible visible on the presbytery table when we entered the room,—though there was certainly an abundance of legal documents."

Such was the second act in the drama of the insurrection of Aberdeenshire moderatism against the authority of the church. The reader will remember that it was simply for attempting to prevent such scenes as those of Marnoch and Culsalmond, and such outrages upon the religious feelings and privileges of the members of the church of Scotland, that parliament was to be asked to drive the evangelical and reforming party out of the establishment.

A little piece of statistics, which was furnished at the time, may serve to throw some further light on the spiritual state of the presbytery of Garioch. It consisted of fifteen parishes, nine of which were under

CHAP. XIII.

Missionary statistics of this Presbytery.

a moderate and six under an evangelical ministry. It was the instruction of the general assembly that once a year, in every congregation, a separate collection should be made for each of the great schemes, five in all, in aid of missions, education, &c., by which the church was labouring to advance the interests of Christ's kingdom at home and abroad. It will follow from this statement, that in the nine parishes served by the moderate majority of the presbytery of Garioch, there ought to have been made, during the preceding twelvemonths, forty-five collections. In point of fact, only ten collections had been made,—and the entire aggregate of these collections was £15 : 4s. From the six parishes served by the evangelical minority, thirty collections were due. They had actually made twenty-five, and the sum raised was £63 : 2s. The incident is not one of first-rate importance, but it has its meaning; and there are minds to which it will reveal important truths.

The November Commission and the Culsalmond case.

At the meeting of the commission of assembly, on the 17th of November, the case of the Culsalmond intrusion, with all its accompanying aggravations, was brought up by a petition, signed by eighty-nine of the male heads of families, communicants in that parish, and by certain others, complaining of the proceedings of the presbytery, asking redress, and craving supply of religious ordinances, on the ground that they could not recognize Mr. Middleton as their minister. Mr. James Moncrieff, advocate, having been heard for the petitioners, it was moved by the Rev. Dr. Patrick M'Farlan, that the petition be served upon the parties complained of, and that these parties should be cited

to appear at the commission in March,—or in the event of no commission being held, at the ensuing general assembly. Further, and in the meantime, the motion proposed that the Rev. William Middleton be prohibited "from officiating and administering ordinances in said parish,"—and that the minority of the presbytery of Garioch be empowered and instructed to meet forthwith, and to make such arrangements as might appear to be necessary, in existing circumstances, for supplying divine ordinances to the people of Culsalmond. Dr. Bryce was at his post, as usual, to throw his shield over the heads of the intrusionists. He moved, as an amendment, that the petition be dismissed. The amendment was rejected, and Dr. M'Farlan's motion carried by a majority of 54 to 3.

The Commission take steps to proceed against the Presbytery in March, and prohibit Mr. Middleton from officiating meanwhile.

It had now become quite the order of the day, to run to the civil tribunals, to get an arrest laid upon the execution of the sentences of the church. Following the many precedents which had been furnished by other ecclesiastical delinquents, Mr. Middleton, though the prohibition issued against him by the commission touched none of his civil rights as the presentee to the parish, made application to the lord ordinary to have the prohibition, with all its accompaniments, arrested and set aside. The Lord Ordinary, Ivory, refused to pass the note of suspension and interdict craved by Mr. Middleton. In doing so his lordship gave the reasons of his judgment in an able and elaborate note. It had been argued that the case was ruled by previous decisions of the court. "The more he has studied the matter," says Lord Ivory, "the

Mr. Middleton applies to the Lord Ordinary to interdict the Commission's sentence.

CHAP. XIII.

Lord Ivory's opinion of the Culsalmond case.

more has he become satisfied that the present case does not fall within the scope of these precedents. There is no question now before the court as to the legality of the veto-act; and the civil rights, whether of the patron or presentee, will stand perfectly unscathed notwithstanding all that has yet been done by the commission of the general assembly. The only question here is,—shall this court interfere with the proceedings of a *proper church court*, where that court, *acting within its own province*, is dealing with a *proper ecclesiastical cause*, and this too while that cause is still actually depending before them." Having shown by a simple statement of facts that the case, on the very face of it, was one which the civil court might refuse even to entertain, as being obviously and altogether out of their jurisdiction,—his lordship went on to say, "But if it were competent to look at the deliverance thus pronounced by the church court, it would not avail the complainers,—for on the face of that deliverance the church court appears to have done nothing but what as a church court they were entitled to do. All that is there presented is the fact, that a certain petition and complaint having been submitted, they, 1. Appoint service on the parties complained against; and, 2. In the meantime, and until a final deliverance, interdict the presentee 'from officiating and administering ordinances in the said parish;' and, 3. Authorize and enjoin the members of presbytery not complained of, 'to provide *for the ministration of the word and sacraments in the parish*, in the manner which shall appear to them competent in the existing circumstances of the parish.' Now really if such a

His lordship's view of what the Church had done.

deliverance is to be regarded as involving any matter but what is purely and strictly ecclesiastical, and quite within the powers of *discipline* belonging to the church courts, the lord ordinary is at a loss to conceive what shall ever be so held. No *civil* interest, either of the patron or presentee, is thereby affected." Lord Ivory could not yet believe—what, however, had been again and again foretold in the general assembly—that the modern claims of the court of session to a jurisdiction in all matters which might seem to them to "affect" civil rights, was a claim elastic enough to reach not only such a case as this of Mr. Middleton, but any and every case with which the courts of the church could ever be called to deal. Mr. Middleton having brought the lord ordinary's decision under the review of the first division of the court; it was there reversed without hesitation. The lord president, who moved the judgment of the court to pass the note of suspension and interdict as craved, laboured to show that somehow or other, though Lord Ivory had been totally unable to see it, the veto-law was concerned in the case. There was nothing, his lordship was obliged to allow, in the terms of the commission's sentence to prove that it was founded on any proceedings whatever connected with that obnoxious law. He made no attempt to answer the argument on which Lord Ivory grounded his assertion, that the very same sentence might, and, in all probability, would have been pronounced by the commission, even if the veto-law had never existed. The lord president seemed to think it enough for his purpose that the sentence of the commission did not declare, in express terms, that it

Declares that there is nothing *civil* in the case.

Lord Ivory's judgment brought under review.

The Lord President's argument in favour of the interdict.

CHAP. XIII. was not meant to refer to that law. The sentence was not so carefully worded as it ought to have been if it had really nothing to do with the veto-law; the language it employed was too general, and his lordship made out his point by assuring his colleagues that "the well-known maxim, *dolus latet in generalibus*, fully applied to such a case." At the same time, his lordship's judicial shot bag was by no means exhausted: for even had he failed to hit the ecclesiastical sentence with number *one*, he was sure to bring it down with number *two*,—a size warranted to kill, and at the longest range, any game ever sprung within the covers of the church. When Lord Ivory said there was nothing *civil* here,—he naturally enough thought only of the stipend, manse, and glebe. The lord president took a much more enlarged view of the term. "Nothing was more manifest," he said, "than that Mr. Middleton's civil rights were affected by his suspension from his official duties, and administration of ordinances, in the same parish where he had acted as ordained assistant." If any one should have been still at a loss to find his way to a conclusion pronounced by his lordship to be so manifest, the explanation was at hand. "By the transfer of his duties to the minority of the presbytery, a gross stigma was fixed on him and his sacred character as a minister of the gospel,—from which he had a just claim to be protected." This is exactly what the opponents of the doctrine laid down, by the civil court, as the basis of their judgment in the Auchterarder case, always said would by and bye be found to be contained in that doctrine. For a while it might be applied only

The wide range of the Lord President's principle of decision.

The sentence of the Church affected civil rights, because it might affect Mr. Middleton's reputation.

where stipends and patronages were concerned; but if it was good for the purpose of overthrowing ecclesiastical sentences, merely because they indirectly affected such civil interests as these, it would soon be discovered to be quite as available for overthrowing any ecclesiastical sentence whatever. Here, in the Culsalmond case, it was not pretended that either the presentee's benefice or the patron's right of presentation, was in any way touched or compromised. The personal character of the presentee was the only civil interest that could be affected by the sentence complained of: and if this constituted of itself a sufficient ground to sustain the civil court's jurisdiction in the matter, the very same ground might be pleaded by every delinquent whom a church court might deem it to be a duty to debar from the table of the Lord. Lord Jeffrey pointed out all this in his unanswerable, and, to this hour unanswered, judicial opinion in the Auchterarder case. It was well, however, that the real question in dispute was now no longer involved in those legal tortuosities, as Dr. Gordon happily termed them, amid the intricacies and obscurities of which its true nature had been often successfully misrepresented, and sometimes honestly misunderstood. In proportion as the conflict thickened and its dangers increased, the magnitude and sacredness of those interests which it involved were becoming every day more apparent: and in anticipating its issue, it was no trifling consolation to those who, in a temporal point of view, were likely to be the greatest sufferers, that the Supreme Disposer of events was bringing forth their righteousness as the light, and their judgment as the noon day.

This plea will avail against any sentence the Church can pronounce.

Lord Jeffrey pointed out this, long before, as the result to which the Court of Session's principle would carry it.

Providence was throwing fresh light on the true nature of the question.

CHAP. XIV.

THE CLAIM OF RIGHTS AND THE CONVOCATION.

CHAP. XIV. BEFORE advancing to the important assembly of 1842, in which the church took her final stand as to the terms on which alone she would remain in connection with the state, it may be necessary briefly to notice the efforts which, meanwhile, had been made in the way of seeking an amicable adjustment of her claims.

Reasons which led the Duke of Argyll to withdraw his bill.

On the 16th of July, 1841, the Duke of Argyll attended a meeting of the non-intrusion committee in Edinburgh, and explained the circumstances in which it had become necessary for him to withdraw his bill. Those events, which, shortly after the rising of the assembly of 1841, led to the dissolution of parliament, and ultimately to a change of ministry, had, of course, made it altogether impossible for his Grace to do anything else than what he had done. It was not in the hurry and confusion of the breaking up of parliament, and amid the bustle and excitement of an impending general election, and at the moment when rival political parties were matched in a life and death contest for power, that any hope could be entertained of securing attention to interests so little accounted of in the high places of the land, as were those of the church of Scotland. Although the new parliament was to meet in August, its session was expected to be brief, and was likely, moreover, to be so much occupied in deciding upon the fate of the government, as not to offer a favourable opportunity for attempting to legislate on a question so delicate and difficult as that

of the Scottish church. His Grace informed the committee, however, that it was his firm purpose to re-introduce his bill when parliament should meet for the dispatch of business at the beginning of the ensuing year. In the propriety of this course the committee expressed their entire acquiescence; while, at the same time, they tendered to his Grace the grateful acknowledgments of the church for his efforts in her cause.

The non-intrusion committee acquiesce in these reasons.

So soon as the new government was formed, the non-intrusion committee took steps to bring under its notice the actual state of matters in the Scottish church, and the urgent necessity which existed for the early interposition of parliament. For this purpose a statement was prepared, which, in the month of September, was placed, by a large and influential deputation, in the hands of Sir Robert Peel. The Rev. Dr. Gordon, the chairman of the deputation, stated the case of the church. The new premier listened attentively, but said little or nothing. He appeared to have made up his mind to avoid expressing his own views altogether, and it seemed to those who were looking on, that it was only the admirable clearness and singular impressiveness of Dr. Gordon's address, that tempted the cautious minister of state to break silence at all. The few words which he suffered to escape him, though, for the most part, they were shaped into the form of questions, betrayed not indistinctly his hostility to those views and principles for which the church was contending. "That man," said Dr. Gordon to one of the members of the deputation as they came out from the interview, "will never

A deputation waits on Sir R. Peel, the new prime minister.

Remark of Dr. Gordon at the close of the interview.

CHAP. XIV. sanction the independent jurisdiction of the church:" nor had he, in saying so, miscalculated the true state of the premier's mind. Mr. Goulburn, the only other member of the government who was present on the occasion, took no part in the conversation whatever. The

Part taken at the interview by the Rev. James Morgan of Belfast.

Rev. James (now Dr.) Morgan of Belfast, an eminent minister of the Irish presbyterian church, who had kindly accompanied the deputation, requested permission from Sir Robert Peel, before they withdrew, to offer his testimony, and that of his church, upon the question that was now agitating the church of Scotland. Mr. Morgan assured Sir Robert, who listened with marked respect, that those views of the doctrine of her standards and of her constitutional liberties, on which the church of Scotland, in her present conflict, was proceeding, were the very views which the Irish presbyterian church,—a church sprung from the church of Scotland, and holding her standards,—unanimously entertained. The judgment of such a witness was surely entitled to some weight. It was, at least, no great presumption to assume that they had studied their own church's history, and understood her confession of faith as well as those, who, like Sir Robert Peel and the vast majority of the British parliament, were, in a great measure, strangers to both.

Pleads the case of the Irish Presbyterian Church, to show the safety of conceding the claims of the Scottish Church.

Moreover, if non-intrusion and spiritual independence were, as was alleged, doctrines dangerous to the commonwealth, they were, at any rate, in full force in the Irish presbyterian church; and Sir Robert Peel could tell whether they had wrought much mischief there. The appeal Mr. Morgan founded on the loyalty and good citizenship of the members of a

church which maintained, in all their integrity, the very principles and privileges, which the church of Scotland was now threatened with disestablishment for refusing to concede, was not more adroit than it was appropriate and just. If it failed to make an adequate impression, it was not from any want either of force in itself, or of ability and earnestness on the part of the individual who used it. The service which, through Mr. Morgan, was thus rendered to the church of Scotland, and the cordiality with which, in his person, the presbyterian church of Ireland had come forward, at that critical moment, to aid her in the painful and perilous struggle in which she was engaged, were only a specimen of that generous support and sympathy which the Irish presbyterians gave to their Scottish brethren, from the commencement to the close of the ten years' conflict.

The services rendered in the conflict to the Scottish Church by their Irish brethren.

About this period, an incident occurred which, for some time, involved the committee in very considerable embarrassment and perplexity,—and which, in its indirect results, materially injured, and ultimately destroyed, the church's prospects of a peaceful and satisfactory settlement. Sir George Sinclair, a man of excellent intentions and amiable dispositions, but considerably deficient in that solidity of judgment and strength of will so necessary in the conduct of public affairs, took it upon him to solve the *quæstio vexata* of the church. Many causes seem to have combined in tempting him to undertake this confessedly difficult enterprize. He was himself a member and office-bearer of the Scottish church; and ten years before, had marched in the very van, though never entrusted

Movement of Sir George Sinclair.

CHAP. XIV.

with the guidance, of the party of her reformers. Nothing short of the entire abolition of patronage would, at that time, satisfy him,—and it was upon his motion that the house of commons, in 1833, granted a select committee to inquire into the subject. The laudable ambition by which he had then been animated, of restoring to the church of his native land one of her most ancient and valued privileges, no doubt continued to possess him still,—though he was now contented to aim at a greatly inferior achievement, to that which he had contemplated at the outset of his reforming career. Men of rigid and resolute natures cannot easily accommodate themselves to the plans and purposes of others. The sharp angles of their fixed and uncomplying minds, stand in the way of their getting easily and amicably into close contact with others. Softer and more pliable dispositions, on the other hand, can take without difficulty the form of any surface to which they are applied. It was, perhaps, due to this cause that Sir George Sinclair could say, with a latitude of application unexampled perhaps among the public men of his time,

Originally a zealous opponent of patronage.

> Tros Tyriusque, mihi nullo discrimine agetur.

Mr. Daniel O'Connell, the leader of the Irish papists, and Mr. James Edward Gordon, member for Dundalk, the champion of bible protestantism; Sir Francis Burdett, the idol of the Westminster reformers, and Sir Robert Peel, the conservative chief; Dr. Chalmers, the representative of the church's claims, and Sir James Graham, their inflexible opponent;—Sir George had the singular happiness of being in terms

Singular catholicity of Sir George's spirit.

of cordial intimacy with them all. Nothing certainly but this amazing catholicity of spirit, could have contrived to become the medium of communication between Dr. Candlish and the Dean of Faculty. But so it was. "In July last," said Mr. Candlish, writing of this rather memorable intercourse, some months after it occurred, "it was proposed to me that I should meet and confer with Mr. Hope, then dean of faculty, on the present difficulties of the church. This proposal was made by Sir George Sinclair, who was an elder in my congregation,—and was in the habit of frequent intercourse with me, especially at the prayer meetings which were held on behalf of the church. * * * * Accordingly, on the invitation of Sir George, and at his house, I had a very long conference with Mr. Hope."* At this interview, Mr. Hope seemed not unfavourable to an arrangement on the footing of the positive call of the congregation, and undertook to prepare the drafts of two bills, the one on the principle of the call,—the other on that of the *liberum arbitrium*, or right of the presbytery to interpose their veto upon the settlement. Meanwhile Sir George, impatient perhaps of the slower and more cautious movements of the lawyer, had prepared a clause himself,—by the insertion of which into Lord Aberdeen's rejected bill of 1840, the basis, as he thought, of a practicable adjustment might be laid at once. This clause he showed to Dr. Candlish, and others,—who, looking at it by itself, and apart from the bill, were disposed

Sir George brings into communication Dr. Candlish and the Dean of Faculty.

Dr. Candlish's account of their intercourse.

* Narrative relating to certain recent Negotiations for the Settlement of the Scottish Church Question, by Robert S. Candlish, D.D., &c., &c. Johnstone, Edinburgh.

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Sir George's clause and Lord Aberdeen's first opinion of it.

to think well of it; and all the more when Sir George shortly after assured them that, on his communicating it to Lord Aberdeen, his lordship at once declined having anything to do with it,—because, as he stated, in a letter to Sir George, "it would make the repeal of the veto-law illusory." As this criticism of his lordship's, while it certified the *bona fide* non-intrusionism of the clause,—seemed, at the same time, effectually to extinguish all hope of Sir George's success in getting it adopted,—the matter was for the time allowed to go to sleep.

"Here," says Dr. Candlish, continuing his narrative, "the matter rested till towards the end of September, when I was in London, along with the other commissioners appointed to present the memorial to her majesty's government. While there, I received a letter from Sir George, in which he says—'It is with feelings of the greatest satisfaction that I announce to you, by permission, or rather at the suggestion of the Dean (Mr. Hope), the result of two frank and friendly conferences which took place between us this day (22d September). He had apprized me this morning of his return to Edinburgh, and did not appear to be as full of *hope* as of *anxiety*, that the church question might be amicably and honourably adjusted: but after hearing with great patience and interest, a full statement of all my proceedings, including of course the view taken by Lord Aberdeen, and still more strenuously by Dr. Cook, in opposition to the plan which I suggested, he at once declared his own conviction that such a basis ought to be accounted satisfactory by the government and by the

Letter from Sir George to Dr. Candlish.

minority: and when I saw him the second time, he read to me a very full, fair, and able communication which is to be forwarded this night to Lord Aberdeen, in which he strongly advises that, for the sake of peace, the proposed words should be introduced.' In what sense," continues Dr. Candlish, "Mr. Hope understood the words proposed to be introduced, Sir George does not in that letter distinctly state. He leaves it to be inferred, however, that it was in the same sense which Lord Aberdeen, as well as we, put upon them: and at a subsequent period, I remember Sir George reporting to us Mr. Hope's admission, that the bill, as amended, would enable the church courts 'to enforce the veto in every particular instance if they chose:' although I am inclined to believe, from what will afterwards be stated, that this admission must have been made in a very limited and qualified acceptation of that phrase: or that Sir George had misapprehended Mr. Hope."*

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Remarks on this letter by Dr. Candlish.

The representation made by Mr. Hope had, it appears, enabled Lord Aberdeen to get over his objection to the clause,—perhaps, because he had discovered that it would *not* render the repeal of the veto-law illusory. Accordingly, at a meeting of the non-intrusion committee, held on the 1st of October, Sir George formally requested their opinion on the proposed modification of Lord Aberdeen's bill. The committee, with becoming caution, replied that they did not feel themselves at liberty to give opinions on schemes that were still *in nubibus*,—schemes not

Lord Aberdeen had become reconciled to the clause; having perhaps found out its real meaning.

* Narrative, &c., p. 9.

CHAP. XIV. sanctioned by government, or by any responsible party in the state. They informed him, moreover, that they were the less disposed to comply with his request, because "the measure, even when thus amended, falls so far short of what the church might reasonably expect, and what she has apparently the prospect of obtaining," *—referring, no doubt, to the Duke of Argyll's bill. To evince, at the same time, the sincerity of their desire to promote in every legitimate way the settlement of this agitating question, they stated to Sir George that they would immediately transmit such instructions to Mr. Hamilton, the secretary of the committee, who was then in London, as would enable him to give, on their part, a definite answer to any proposition of the nature pointed at by Sir George that might emanate from the government. In these instructions, which were dispatched the same day, the committee pointed out distinctly the sense in which they understood the suggested modification of Lord Aberdeen's bill. "The utmost," said the committee, "that can be said of the bill of Lord Aberdeen with the proposed modification is, that it would leave the office-bearers of the church, who hold the principles of non-intrusion in the sense now maintained by the church, free to follow the dictates of their own consciences, in each particular case of the settlement of a minister, and that it would enable them to do so without the hazard of a collision with the civil courts."† This would be at best an inconvenient and defective

Correspondence of Sir George with non-intrusion committee.

Opinion of the committee as to the proposed measure.

* Printed Proceedings of Non-Intrusion Committee, extracted from their Minutes, p. 7.

† Ibid, p. 9.

arrangement, and therefore it was only as a *pis aller* they could consent to look at it. "If it shall appear," they said, "that this is the only measure which those in authority are willing to grant, and that they are prepared to grant it immediately, the church, while she could not regard it as an adequate settlement of the question, might, and certainly would, consent to act under it, and to accommodate her ecclesiastical procedure to its provisions." For a little moment, it did seem as if the government really intended to interfere. On the very next day, the 2d of October, the committee were hurriedly assembled to consider a communication from one of their own deputies, Mr. Bruce of Kennett, who was then in London on the business of the church. At the suggestion of Sir James Graham, secretary of state for the Home department, Mr. Bruce put, in writing, this query to the committee:—"In the event of a proposal coming from her Majesty's government, based on the clause transmitted by Sir George Sinclair to Mr. Candlish, and sent by the Dean of Faculty to Lord Aberdeen, and such a proposal made on the authority of the government, will the non-intrusion committee appointed by the assembly (even though they should prefer another mode) accept it as a final settlement of the non-intrusion question?" To this more official looking communication the committee transmitted as their reply,—that in the event of government being "disposed and prepared to carry a measure for the settlement of the church's affairs on the basis mentioned in that query, during the present session of parliament, the committee"—understanding the mea-

Guarded consent of the committee.

Mr. Bruce of Kennett's query, addressed to the committee at the suggestion of Sir James Graham.

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The committee's answer to the query.

sure in the sense already explained—"would answer the query in terms of the instructions agreed to yesterday, and especially in terms of the third article of these instructions." That third article distinctly stated that the measure in question would be so defective, and in many points of view so objectionable, that the church could never undertake the responsibility of proposing it as her own, or express any wish for a settlement on that basis. Furthermore, it intimated that the church must be understood "as at that moment earnestly desiring a more full and satisfactory adjustment,"—on the footing either of the popular veto or of the positive call. So far the committee went, and no farther,—far enough to show that, out of a desire for peace, and to avert the hazards now impending over the church's establishment, they would submit to any measure that came fairly within the non-intrusion principle,—but not so far as to court a settlement so niggard and narrow as the one now proposed. The minutes of the committee, embodying these answers and instructions, having been submitted to the government, the negotiation fell at once to the ground. Government were not "disposed and prepared" to legislate in that session,—and for the present, therefore, the whole matter came to an end. The two parties concerned in this negotiation parted, however, on perfectly amicable terms. On the side of the committee, a memorandum was left in the hands of Sir James Graham, in which, after referring to the leading points in these late proceedings, noticing the great importance of having the matter settled on a footing more broad and liberal than the one proposed,

Government not prepared for the committee's terms, and the negociation is broken off.

and specifying the abuses to which the proposed plan was liable, it spoke as follows:—"The church herself desires any other form of the non-intrusion principle to be sanctioned rather than one which may be liable to such abuse, or even to the suspicion of it. Both parties in the church, it is believed, would prefer a general rule to be laid down; and there can be little doubt that an arrangement might be made on the footing of the Duke of Argyll's bill or of the call, in which both might practically and even cheerfully acquiesce." In answering this communication, Sir James Graham took occasion to observe, that should the disposition recently evinced, to reconcile conflicting opinions and accommodate past differences, be improved during the recess of parliament, he ventured "to believe that the terms of a just and honourable settlement may not be found impracticable." *

The committee and the government part, at this point, on friendly terms.

Meanwhile, about the middle of the same month of October, Dr. Candlish received a letter from Mr. Hope, which produced on his mind the immediate and inevitable conviction, that—as in the case of the communications of the committee and Dr. Chalmers with Lord Aberdeen the year before—they had been playing at cross purposes again, and were, in reality, as far apart as ever. In this letter Mr. Hope, having dropped altogether, just as Lord Aberdeen did in the spring of 1840, the plan of the positive call, assured Dr. Candlish that he was prepared to recommend a modification of his lordship's bill more extensive even than would have been made by Sir George Sinclair's clause; but, at the same

Letter from Dean of Faculty to Dr. Candlish.

* Printed Proceedings of Committee, &c., pp. 17, 18.

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Discovery which the Dean's letter makes as to the real nature of the proposed clause.

time, conveying the somewhat startling intimation, that all which this modification would accomplish had been within the legal effect of the bill as it originally stood, and, that even with this modification, it would exclude the possibility of a negative being put on any presentee of a patron on the ground of the dissent of the people! No wonder that Dr. Candlish wrote in reply, "I have very carefully weighed your clause; it seems to me to realize what I stated to you from the first as my expectation, that when the proposition was reduced to writing, the essential difference between us would clearly appear."*

It were both endless and unprofitable to trace all the misrepresentations and annoyances, and hopeless intricacies, connected with this memorable and miserable "clause,"

——longa est injuria, longae
Ambages: sed summa sequar fastigia rerum.

Summary of these perplexing and profitless negotiations.

The leading particulars which we deem it sufficient thus summarily to review will be found clearly, concisely, and candidly stated in the following paragraph: "There is reason to think that, at a very early stage of the negotiation, the opposite parties with whom Sir George Sinclair communicated began to put different constructions on his clause; that Mr. Hope and Lord Aberdeen, through whom the proposal reached Sir James Graham, looking at the effect which it would have when taken in connection with the rest of the bill, understood it in the sense last

* Narrative, &c., pp. 20—24.

explained, while the members of the committee considered it rather in its isolated and detached form, and the meaning which, when thus considered, it seemed to bear. To an anxious and sanguine lover of peace and a friend of both sides in this unhappy controversy, it might appear a considerable point gained to have found a general formula, or form of words, which might be held so comprehensive as to cover the difference between them. The desire of effecting an adjustment might lead such a friend, sustaining the character of an '*amicus curiæ*,' to overlook somewhat the limitations and qualifications with which the opposite parties respectively guarded themselves; and without too particularly or minutely canvassing their respective comments, which, if compared, might have brought out the essential disagreement,—he might think it best to keep to the very clause itself, as a form, at least, tolerable to both, trusting that if it were once adopted, all conflicting views of it would in course of time and in the actual working of the measure, be cleared up,—not perhaps sufficiently adverting, to the absolute impossibility of the arrangement going even so far, as to the framing or revising of the bill in its final state, without the real opinions of the parties in regard to it, being brought clearly out in a way impossible to be evaded. Such, I believe, has been the course, and such the issue of every negotiation hitherto, based on the plan of a discretionary liberty to be vested in the church courts. That plan has uniformly been discussed as a kind of middle measure which might bring together parties who, so far from having come to an understand-

The probable theory of this famous clause.

CHAP. XIV. ing as to the principle to be practically allowed, were still irreconcilably at variance. Thus, our opponents insist that in every instance the rejection of the presentee must proceed on a judgment of the church courts upon the reasons of the people, and the qualifications of the presentee. They would give the church courts all possible latitude in coming to that judgment, even to the extent of the most whimsical caprice; and this is their *liberum arbitrium*, or discretionary power vested in the church. But this is not the kind of measure to which we have ever said we would submit; we insist that the church courts must, at the very least, have liberty, in every instance, to reject exclusively on the ground of the dissent of the people. Under whatever general form that liberty may be expressed or implied, it must be unequivocally sanctioned. Now the attempt has always been to explain and set forth the latitude intended to be allowed to church courts, according to the plan of our opponents, in terms so wide and comprehensive, and with so plausible, though still so indirect a reference to the whole circumstance of the parish, and even to the number or proportion of objectors, that it may appear to include and embrace in it the liberty for which we contend. Of course, I do not mean that the attempt is made in bad faith; I impute it to misunderstanding and to a well-meant, perhaps, but ill-judged design, to effect an agreement in words between those who are still diametrically opposed in reality."*

The proposal sounded like one thing but meant another.

The puzzle can be explained without any imputation of bad faith.

The true meaning which lurked beneath the decep-

* Narrative, &c., pp. 30—32.

tive surface of Sir George Sinclair's ambiguous formula having at length, as already mentioned, come fully and fairly into view, the committee took steps to put an end to any possible misunderstanding upon the subject between them and the government. On the 23d November, Dr. Gordon transmitted to Sir James Graham an explanatory minute of the committee, accompanied by a letter, in which it was expressly stated, that this communication had been rendered necessary by a "material misunderstanding" which now seemed to have existed in the minds of some of the parties engaged in the late negotiation. Again, on the 3d of January, 1842, Dr. Gordon wrote, and at great length, to Sir James Graham upon the same subject. The answer of Sir James sufficiently revealed both the reality and the extent of the misunderstanding, by announcing explicitly, that in the sense in which the committee understood the suggested modification of Lord Aberdeen's bill, the government would from the very first have considered it "inadmissible:" and so the bubble burst. We do not by any means affirm that mischief was intended by this unhappy negotiation, into which, in spite of themselves, the committee were drawn. It certainly was not intended by the amiable and ingenuous baronet with whom, apparently, the negotiation originated. But certainly the elaborate ambiguities of the phraseology on which it turned, formed precisely such a maze as might bewilder some, and afford to others an opportunity of stealing away from their former friends. It "might be thought," as Dr. Candlish, not without reason observed, "a master stroke of policy: the

The committee's communications to Sir J. Graham on discovering the true import of the clause.

The government repudiate the clause in the committee's sense of it: and the whole matter comes to an end.

CHAP. XIV. introduction of a wedge for breaking up the army of the church's defenders, and the friends of her non-intrusion cause." It did so, it is true, to only a very limited extent,—but yet to such an extent as served to fasten more firmly the bandage over the eyes of men who would seem to have been judicially blinded.

This peddling clause becomes the occasion of a small secession from the ranks of non-intrusion.

A few rapid strides will now carry us on to the assembly of 1842. In the month of January, the Duke of Argyll, accompanied by Mr. Campbell, of Monzie, member of parliament for Argyllshire, held two interviews with the non-intrusion committee. The committee urged his Grace to reintroduce his bill, which he cordially consented to do, unless he should find, on reaching London, that the government really intended to undertake the settlement of the question on some satisfactory basis themselves. On the 15th of March, Sir Andrew Leith Hay brought on a discussion in the house of commons, on the Scottish church question, under a *pro forma* motion, to have certain papers relative to a recent, and, as it was alleged, objectionable appointment by the crown, of a minister to the parish church of Elgin. In replying to Sir Andrew, Sir James Graham took occasion to state, that "the government had come to the decision, deeply regretting the necessity which had compelled them to do so, that it was not necessary for them to attempt legislating on the question, but that it was incumbent on them to stand by the law of the land, as laid down by the civil tribunals of the country." This ominous declaration called up a gentleman, named a little above, than whom no one manifested, either in parliament or elsewhere, a more fearless,

Discussion in House of Commons in March 1842, on motion of Sir A. L. Hay.

Government announce that they do not intend to legislate, but to enforce the law as it is.

single-hearted, and devoted attachment to the great cause for which the church of Scotland had been called to contend. Mr. Campbell, of Monzie, loved that cause for its own sake,—and was ready to sacrifice, and did in the end sacrifice, all his political connections and interests rather than abandon it. Sitting, as he did, among the supporters of Sir Robert Peel, "he little expected that the first occasion on which he addressed the house, he should be compelled most thoroughly to condemn the line of conduct her majesty's ministers were about to pursue. The right honourable baronet (Sir James Graham) had declared in the most emphatic terms, that he would enforce the law against the church of Scotland. He begged leave to tell that right honourable baronet, that he could not do what he had declared he intended to attempt. He defied him to do it." Sir James probably meant no more than to threaten: at least he was too wise and wary to attempt to carry his menace into actual execution. Not, indeed, that any outward resistance would have been offered to the arm of the civil power. Those whom its grasp might have seized, would have gone as gladly to prison as Peter and John did at Jerusalem, or Paul and Barnabas at Philippi. That alone which Sir James would have had to fear, and to which exclusively Mr. Campbell no doubt referred, was the recoil of the public mind from acts of manifest injustice and oppression, and the tide of odium and infamy which ere long that recoil would have rolled back upon himself. The motion of Sir Andrew Leith Hay having been negatived without a division, Mr. Campbell, agreeably to a previous notice,

Mr. Campbell of Monzie. His devotedness to the cause of the Church.

Mr. Campbell tells Sir James Graham that he cannot do what he had threatened.

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Mr. Campbell's motion for a select committee.

moved for "a select committee to consider the constitution and principles of the church of Scotland, and to inquire into the causes of the collision between the supreme courts of that church, and the supreme civil courts, and to report their observations thereon to the house: with power to send for persons, papers, and records." This motion brought up Sir Robert Peel who, in a speech considerably more mild and guarded than that of his colleague, assured the house that he opposed the appointment of a committee, simply because it "could produce no satisfactory result;" and would "widen instead of healing those breaches which already unhappily existed." An opportunity of noticing this evasive plea, will afterwards occur: and at present it is necessary simply to state, that Mr. Campbell's motion was defeated upon a division, by 139 to 62.

The motion negatived by 139 to 62.

It had meanwhile been arranged, with the concurrence of the Duke of Argyll, that the bill which his Grace introduced, the year before, into the house of lords should, on this occasion, be brought into parliament in the house of commons. In the judgment of those most competent to give advice on such a question, the lower house was the more favourable field for securing a full and fair discussion of its merits,—there being, in that branch of the legislature, a much greater number than in the upper house, of individuals qualified and disposed to advocate the claims of the church. Accordingly, on the 14th of April, Mr. Campbell, of Monzie, moved for and obtained leave to bring in the bill. The few words which, on this occasion, fell from Sir James Graham, seemed to indicate a friendly spirit, and the hopes of a peaceful

The Duke of Argyll's bill transferred to House of Commons, and brought in by Mr. Campbell.

settlement began again to revive. The 4th of May, the day fixed for the second reading of Mr. Campbell's bill, arrived, and arrangements had been carefully and anxiously made to muster its friends, and to secure for it at least a vigorous and effective discussion. About an hour or two, however, before the house assembled, a communication was made to Mr. Campbell, by a distinguished member of the cabinet, to the effect that the government were now disposed seriously to entertain the proposal of introducing a measure of their own, for the settlement of this great question. Mr. Campbell was, at the same time, given to understand, by the same high authority, that the measure which they contemplated would be one, under which the church could at least consent to act: and on this footing he was urged to postpone the second reading of his bill. By reserving this important communication till the moment when members were already coming down to the house, whether designedly or otherwise, there was time left to Mr. Campbell only for the briefest and most limited consultation with his friends. Influenced by the decided conviction which had been left on Mr. Campbell's mind, that government was in earnest,—that their measure would at least come up to a point within the territory of a *bona fide* non-intrusion,—and that a distinct declaration to these effects was to be made that night, by some member of the cabinet, in the house of commons,—it appeared to those deputies of the non-intrusion committee who were then on the spot, and to whom the matter was hurriedly made known, that it was not their duty to advise Mr. Campbell to take upon him

On the day fixed for second reading of the bill, government request that it may be delayed: on the ground that they are now likely to bring in a bill themselves.

Mr. Campbell agrees,—confiding in the good faith of government.

CHAP. XIV. the grave responsibility of declining the government's request. In coming to this conclusion, they of course relied on the honesty of the government. When the order of the day for the second reading of the bill was moved, Sir James Graham rose immediately and addressed the house. He spoke in flattering terms of the importance and usefulness of the Scottish church establishment,—of the anxiety of government to compose its divisions,—and of the reasons which, at the time when Mr. Campbell's bill was introduced, appeared to the government to render it inexpedient for them to attempt to legislate upon the subject. "I feel bound to state to the house," Sir James went on to say, "that since that time, from various quarters in Scotland, from parties entitled to the highest respect, as connected with the popular party, if I may so call it, in the church of Scotland, information has reached her majesty's responsible advisers, which leads us to believe that a favourable opportunity for the settlement of these long existing differences has arrived,—such as has not at any former period presented itself, and of which opportunity we are most anxious to avail ourselves. In consequence of these communications, it is my duty to state to my honourable friend, the member for Argyllshire, and to the house, that her majesty's government have resumed the discussions with the party principally interested in the settlement of the question,—and without entertaining too sanguine an expectation, or wishing to raise such expectations on the part of the house, I may say that I do not despair that the result of these communications may lead to a favourable issue. Of this I am sure,

Speech of Sir James Graham.

Speaks of the amicable spirit which was now showing itself in Scotland.

that if the question is to be decided for the peace and permanent tranquillity of the people of Scotland, it must be by a measure introduced upon the responsibility of the executive government." So far the speech of the Home secretary sounded well, and appeared fully to realize the promise Mr. Campbell was understood to have received. When Sir James went on to describe the measure which the government had actually in view, very grave suspicions were immediately and unavoidably awakened. "The principles," he said, "upon which alone the government are disposed to bring forward a measure for the settlement of the question, I will state very briefly. They are, first, to defend the civil right of the patron to his right of presentation; second, to defend and assert the undoubted right of the parishioners to make objections; and third, to maintain what I believe to be the right of the spiritual courts to decide upon the objections of the parishioners." Mr. Fox Maule, Mr. Patrick Maxwell Stewart, and Mr. Rutherford concurred in regarding this statement as simply and shortly a reproduction of Lord Aberdeen's already condemned and rejected bill,—and on this ground they strenuously opposed the proposition to postpone the second reading of the bill then before the house. This opposition called forth Sir Robert Peel. "We submitted," he said, "to my honourable friend that it would be for the public interest not that he should abandon his motion,—not that he should make any concession,—but that he should postpone his bill until the result of our measure shall be known. I ask whether, under these circumstances, after the declara-

The kind of measure Sir James is disposed to introduce, and the suspicions thus awakened.

Sir Robert Peel's speech.

CHAP. XIV. tion made by the government that they have taken up the question with no other motive whatever than that of consulting the interests and peace of Scotland, and maintaining the just influence of religion in that country, the house will sanction this perfectly novel and unprecedented proceeding, against the wishes of the man who has undertaken to legislate, from the deep interest which he feels in the affairs of Scotland, and who conscientiously believes that it is for the public interest, not that he should abandon his bill, but that he should postpone the consideration of it for six weeks." Mr. Campbell, after what had been stated to him that day, could not, and would not, believe that government intended to offer nothing more, as their contribution towards the settlement of the Scottish church question, than the bill of Lord Aberdeen,—a bill which the government must know would precipitate the very crisis which they were professedly, and he must suppose sincerely, solicitous to avert. The opponents of the course recommended by the government, were not satisfied by these considerations; they predicted that the delay would lead to nothing but disappointment; they regarded this whole proceeding with suspicion and alarm,—and they determined accordingly to rid themselves of the responsibility which it involved by pressing the second reading of the bill that night to a division. They did so,—and the motion for the postponement of the bill was carried against them, by 131 to 43. Up till that time, an impression had been gaining ground that the government had been making up their minds either to introduce a *bona fide* non-

Mr. Campbell does not feel himself at liberty to believe that government mean to give nothing better than Lord Aberdeen's bill.

The second reading delayed.

intrusion measure of their own, or to acquiesce in the second reading of Mr. Campbell's bill with the understanding that some modification, not affecting its principle, should be introduced, in its subsequent passage through the committee of the house. An event had, however, about this time occurred, which is generally believed to have exerted a powerful influence in arresting these more favourable designs, and in throwing back the government upon their old position of Lord Aberdeen's bill. Ever since the well-meant but unhappy intermeddling of Sir George Sinclair, in the affairs of the non-intrusion committee, a disposition had been evinced by a few individuals, to cling to Sir George's too-celebrated clause, even after its true meaning had been wrung out of it and its utter worthlessness, as interpreted by the Dean of Faculty and the government, had been thoroughly exposed. At the April meeting of the Synod of Glasgow and Ayr, this party first proclaimed its existence, when, by way of making its importance known, one of those who belonged to it exclaimed—"There are forty of us in this Synod." "The Forty" became thenceforward their recognized and suggestive *nomme de guerre* in the succeeding stages of the church's conflict. Whatever they may then have intended themselves, as to the kind of settlement to which they would agree, there cannot be any reasonable doubt that the interpretation put upon their movement by the government was this,—that they had made up their minds to swallow, if it were only a little smoothed and gilded, Lord Aberden's bill. Their after conduct sufficiently justified this conclusion of the politicians. Unhappily, however,

The little split made by Sir George Sinclair's movement.

The Forty.

CHAP. XIV. this breach in the ranks of the non-intrusionists, insignificant as it was from the beginning, and as it turned out in the end to be, was precisely the kind of event the politicians had been looking for, and labouring to bring about. To them it seemed to say—"be firm and the game is won." Mr. Campbell, in urging members of the government to support his bill, had previously been able to say—'if you oppose it, and refuse this or some similar measure, you will break up the church of Scotland.' His assertion, treated with at least some deference and seriousness before, was scorned, after the busy agents of the "forty" had, in the beginning of the month of May, gained access to government ears. 'Five hundred ministers, did you say, would leave the establishment, if the church's claims be refused!—bah! we know better,—five and twenty will be the outside of it!' Political sagacity piques itself on its knowledge of mankind,—and conscience is not one of the forces of which, in forming its calculations, it is accustomed to make much account. It was, it is true, a very narrow induction upon which the present sweeping conclusion was based,—but quite broad enough to satisfy secular minds. The defection from the high ground of principle and self-sacrifice, as politicians judged, was now fairly begun,—and nothing but time and the trial were needed to secure a complete and easy triumph over the hitherto refractory church. A few hot-headed zealots might prefer to leap from the ramparts, and would, no doubt, as was confidently predicted, if not also charitably hoped, break their necks by the fall,—but as for the great bulk and body of the garrison,

Unhappy influence which the forty exert on the mind of government.

Expectation of the government that the non-intrusionists will now break down.

there could be now no longer a doubt that they would by and bye surrender at discretion. Such was the unpromising aspect of affairs when the general assembly of 1842 convened.

The Marquis of Bute, Commissioner to the Assembly of 1842.

The queen's commissioner to this assembly was the Marquis of Bute, whose estimable character and the friendly feeling he was known to cherish towards many of the non-intrusionists, made, and probably were intended to make, his appointment to that high and honourable office be regarded as an olive branch held out by the government to the church. His position entitled, and his great wealth enabled him to appear, with all those external attributes of official dignity and splendour which dazzle the multitude. The representative of royalty had never, on any former occasion, approached the supreme court of Scotland's simple and unpretending presbyterian church in such a blaze of grandeur. But trumpets and gold lace formed a poor substitute for other things, which a wiser and more patriotic government would have been careful to provide for a great institution, menaced with ruin. Scarcely had the assembly been constituted in the name of the Lord Jesus Christ, when an attempt was made to compel it to bow to the authority of a secular tribunal. The deposed ministers of Strathbogie,—met in presbytery, by warrant of their civil superior, the court of session,—had, with consistent effrontery, nominated two of their number, and an elder from Aberdeen, to represent them in the general assembly, and had granted them a commission, in due form, to take their places among its members. "The case," said Mr. Dunlop, when this spurious commission

Commission sent up by the deposed Strathbogie ministers.

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The proposal to receive the commission of the deposed ministers, too monstrous to require or deserve discussion.

was brought forward, was quite analogous to that of the people of Birmingham, who, some time ago, before they had received the privilege of the suffrage, elected a legislative delegate to represent them in parliament, —and for parliament to have appointed a committee to decide upon the validity of that election, would have been a monstrosity certainly not greater than the one the assembly were now called upon to perpetrate." * He moved that the commission be not received. While the discussion to which this novel incident gave rise was going on, the Rev. David Dewar, of Bellie, one of the commissioners for the only presbytery of Strathbogie known to the church, approached the clerk's table, and laid upon it a document, understood to be an interdict issued by the civil tribunals against himself and his brother commissioners from that presbytery, to restrain them from taking their seats, and from exercising their rights and privileges as members of the house. Dr. Bryce, impelled no doubt by his profound reverence for the civil power, was very desirous to have the interdict read. Mr. Cunningham remarked, with his characteristic decision of tone and manner, that "no interdict whatever could have any bearing on the question before them." It was very well, however, that the interdict had been laid on the table. The bearing which it had, not on the present, but on a different matter, would have to be attended to by and bye. In the meantime, that which alone they had to do with was the palpable

An interdict laid on the table of the Assembly against the Commissioners from the true Presbytery of Strathbogie.

The Assembly refuse to look at the interdict at present.

* The extracts of speeches, &c., connected with this assembly are taken from "Proceedings of the General Assembly of the Church of Scotland, 1842. Edinburgh, John Johnstone, &c., 1842."

fact, that this particular commission had been granted by men who had no office in the church, who had been deposed from the holy ministry by the general assembly, and that, consequently, any commission proceeding from them was a pure nullity. Self-evident as all this must appear, Dr. Cook was not prepared to acquiesce in the rejection of the commission. "It was very well," he said, "to talk of not receiving a commission from deposed ministers;—who would have thought of such a commission if the deposition had been one in which all parties in the house had acquiesced? * * * He declared it to be a matter connected with civil right,—and having so declared, to that determination he would adhere." "Moderator," exclaimed Dr. Chalmers, on hearing this insulting commission vindicated in the face of the assembly by the moderate leader,—"this is the first time in my life that I ever heard it asserted, that the dissent of a minority superseded the sentence of a court passed by the overwhelming majority. The proposition is in substance this—that those deposed by the general assembly of 1841, shall nevertheless be allowed to sit as members of the general assembly of 1842. Why, sir, the proposition is so very monstrous, and comes so fully to conflict,—so palpably and immediately comes to conflict—with a first principle, that I cannot hold it to be a case for argument at all. But that such a proposition should be made,—that such a proposition should even be thought of, is a very instructive fact. It discovers into what a fearful depth of anarchy and disorder the enemy within,—whether by the instigation and encouragement of the enemy

Dr. Cook's speech in support of the spurious Commission.

Indignant reply of Dr. Chalmers.

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The extremity to which matters are now pushed.

without, I cannot say,—are resolved to plunge the church of Scotland; how they are resolved to strip her of the last vestige of that authority which belongs to every distinct body governed by distinct office-bearers. Never, sir, I would say, has the character of the outrage inflicted on the church come out in such bold relief as at the present moment, when we have just met under the countenance of her majesty, when we have been ushered to our places with the form and circumstance of a great national institute, and when we are now holding our deliberations in the presence and hearing of royalty, represented by one of the most respected of our noblemen. We are now congregated in this, our first meeting, of the present assembly, by the authority and appointment of the last meeting of the last general assembly; and, sir, in these circumstances, what is the first thing we are called upon to do? Why, to pluck from our archives the most solemn deed of that most solemn convocation, and to trample it down under our feet as a thing of insignificance,—

The Church would become a laughing-stock were the Assembly to receive such a commission.

as a thing of nought. * * * It would truly be an egregious travestie,—it would make a farce of the proceedings of our general assembly, a complete laughing-stock of our church,—were there left her no authority to enforce obedience from her own sons. It would present a strange contrast between the impotence of our doings, and the pageantry of our forms,—between the absolute nothingness of the assembly and the mighty notes of preparation,—the imposing cavalcade which accompanied us,—the pealing of the clarionets with which we were conducted into the house, on the present occasion. I must say, there is not a

heart that beats with more gratification, or feels more elevation than my own, at the countenance given to our church at present by the high and honourable of the land; but ours will be the fault if, untrue to ourselves,—if untrue to our privileges,—we shall allow our church to become a sounding brass, and a tinkling cymbal. And, to use the language of an old proverb, if men, deposed in the most regular manner by a sentence of the supreme court of the church, shall be admitted or suffered to sit as members of the general assembly, we shall become a hissing and an astonishment to all passers by."

The matter admits of no concession or compromise.

Undisturbed by such considerations, Dr. Bryce moved, that the commission granted by the deposed ministers should be sustained! Dr. Cook did not venture to go quite so far. More politic, if less courageous and consistent than his zealous confederate, Dr. Cook proposed to reject both the rival commissions from Strathbogie,—the genuine as well as the spurious. The object of this motion was of course to accomplish covertly, and by a side wind, what the motion of Dr. Bryce would have effected openly, and by a straightforward attack. Dr. Bryce fell in with Dr. Cook's proposal, as no one would second his own. The decisive majority, however, by which it was rejected, sufficiently showed that the increasing dangers of the church had in no degree shaken the constancy of the assembly. The motion of Mr. Dunlop was carried against that of Dr. Cook by a majority of 130,—the numbers being for the one 215, and for the other 85. The second day of the assembly was spent as usual in exercises of devotion. During an interval

Dr. Cook proposes to reject both the real and spurious Commissions.

Mr. Dunlop's motion rejecting the spurious commission, carried by 215 to 85.

CHAP. XIV. in these most seasonable exercises, Mr. Dunlop gave in the annual summary report of the missionary and educational schemes of the church. Harassed and distracted as the church during the preceding twelve months had been, it could hardly have excited surprise if its evangelistic and philanthropic enterprises had received less than the usual amount of attention and support. Instead of any deficiency, however, in the revenue of these schemes, their aggregate increase exceeded, by nearly £8000, the income of the year before. The fact, as Mr. Dunlop observed, ought surely, in circumstances so peculiar, to be regarded "as the index of the advance of zeal for God's cause in the hearts of the people, and of the progress of the gospel over the whole world."

Prosperous state of the Church's missionary funds,—notwithstanding of these troubles.

On the day following, Saturday, the 21st of May, the assembly was called on to notice and resist the first open attempt upon its freedom made since the times of persecution. Intimation having been made, that the commissioners from the presbytery of Strathbogie had an important communication to make to the house, Major Ludovick Stewart, one of their number, rose, and addressing the moderator, said—"Moderator, I hold in my hand a document which has been sent to me within the last few days. It is an interdict from the court of session, prohibiting me from taking my seat in the assembly, as the elder from the presbytery of Strathbogie. I am not one of those who treat lightly an interdict of a civil court, for I have long been accustomed to strict discipline. But I hold that there are circumstances in which an individual may be placed, when it would be criminal to obey the

Major Stewart, one of the Commissioners from the Presbytery of Strathbogie, calls the attention of the House to the fact that he has been interdicted from taking his seat.

interdict of any earthly court. I hold in my hand an authority in this holy book (here the speaker held out in his other hand his pocket bible), which does not prohibit me from standing forth in support of the principles of the church of Scotland, in which I have been brought up: and so long as I am permitted, I will serve God as faithfully as I have served my country,—and I am ready to serve my country again, whenever the time arrives and the circumstances may come when I may be called upon to do so." The Rev. Mr. Dewar having stated, that he and the other clerical commissioner had also been served with copies of the same interdict, Dr. Candlish proceeded to comment on this novel and startling incident, unparalleled in their ecclesiastical history. He read the petition to the lord ordinary from the deposed ministers. It prayed his lordship "to interdict, prohibit, and discharge the said Rev. David Dewar, Harry Leith, and Major Ludovick Stewart, and all and each of them, and all and every person or persons, except the persons elected by the complainers, * * from appearing at the ensuing meeting of the general assembly, or of any committee of said assembly, and by themselves or their agents, presenting or transmitting to the said assembly, or committee thereof, any commission or representatives of the said presbytery of Strathbogie: and also, to interdict, prohibit, and discharge the said respondents * * * from claiming any right to sit or vote, and from sitting, voting, or acting in the said assembly, as members thereof, under the foresaid pretended nomination and election, for the presbytery of Strathbogie in any

The clerical Commissioners make a similar communication.

The application for the interdict.

CHAP. XIV. manner of way: and also, to interdict, prohibit, and discharge the said respondents * * from molesting or opposing the complainers in reference to the election lawfully made by the said presbytery and the majority thereof, and the commissioners thereby chosen to represent the said presbytery, in the said ensuing general assembly, in any manner of way." This extraordinary demand the Lord Ordinary Cunningham had granted as craved,—and the interdict, therefore, now brought under the notice of the house, went the full length of the prayer of the deposed ministers of Strathbogie. The assembly did not for a moment hesitate as to the course which, on this emergency, it ought to pursue. By a formal resolution it invited the interdicted presbyters to take their seats and to exercise their functions as members of the house, just as if the interdict had never been issued,—thus sharing with them all the responsibility and the hazard which a breach of the interdict might be found to involve. Further, it recorded in its minutes a solemn protest against the "attempt now for the first time made, on the part of any civil tribunal, to interfere with the constitution of the supreme court of this church," as wholly unconstitutional. Dr. Cook admitted that this interdict was "a strong case" of civil interference. "But," said he, "we might have lamented this interference, and entertained an opinion that, under all the circumstances, it was a stretch of power in the court to do so. But where is your remedy? Not here. You cannot sit *pari passu* with the court of session, and review its decisions. If it violate our privileges, we go to the legislature and tell

The interdict had been granted as craved by Lord Cunningham.

Resolutions of the House on the subject.

our wrongs, and complain and petition that they be so guarded as that no violation of them can take place." Yes, complain and petition,—but in the meantime submit and conform to the orders of the civil power. If you resist the interdicts of the civil tribunals,—"where," said Dr. Cook, "is this to stop?" But surely this other inquiry was at least as pertinent,—if you comply with their interdicts, "where is this to stop?" If the interdict forbids what Christ commands, is the church to obey man rather than God,—and then to go to the legislature to pray that she may be allowed to cease from the sin? "So far," observed Dr. Candlish, in reply, making a distinction which Dr. Cook, as usual, had altogether overlooked, "from having the slightest objection to the remedy to which he pointed, against this unconstitutional interference with our ecclesiastical rights and privileges, secured to us by law, I will rejoice to go along with the Rev. doctor in seeking such a remedy: and I hope, therefore, that he will go along with us when we propose to seek such a remedy. But the adoption of that particular remedy, which consists in going to the supreme civil power to complain against this encroachment on our ecclesiastical privileges, and to protest against it as unconstitutional and illegal,—that is one question. But it is another question,—what is our duty when such encroachments are attempted and made? and *that* is the only question before the assembly." Dr. Cook having moved a simple negative upon the resolution proposed by Dr. Candlish, the assembly divided, and the resolution was carried by 173 to 76.

CHAP. XIV.

Dr. Cook's argument in defence of the interdicts.

Speech of Rev. Dr. Candlish in reply to Dr. Cook.

The movement at which Dr. Candlish hinted in his

CHAP. XIV.

Necessity for an appeal to parliament.

answer to Dr. Cook, was destined to be the great characteristic event of this assembly. Even before this last outrage had been perpetrated, it had become abundantly manifest that to go on in the face of such incessant assaults upon the rightful jurisdiction and liberties of the church, as were now made by the courts of law, was altogether impossible. The church was entitled to know from the legislature, whether it intended to sanction, by its sovereign authority, that supremacy in matters spiritual which the courts of law had now assumed, and were daily attempting, by means so harassing and intolerable, to enforce. The time had come when, instead of facing these encroachments in detail, and remaining under the fire of those civil processes which constituted the artillery of erastianism, the church should go at once to the state itself,—and submit the whole matter to the arbitrement of one authoritative and final decision. Up to the point at which she now stood, the church was in the attitude of maintaining that not she, but the civil tribunals, were acting, in respect of the matters now in dispute, in violation of the law of the land. If the state was prepared to sanction this plea, the church was entitled to ask and expect that effect should be given to it, by the immediate adoption of such a legislative remedy as would relieve her from the yoke of so grievous an oppression. If, on the other hand, the state was not prepared to follow that course, an alternative still remained. Let the announcement be distinctly made, that the right of interference now claimed and exercised by the courts of law has the sanction of the state, and that submission to that

The alternatives the Church must offer to the State.

interference is henceforth to be the understood and avowed condition on which alone the church can retain the temporal benefits and immunities of her establishment, and then the two parties concerned in this contract—the church on the one hand, and the state on the other—will know what to do. If, after that announcement, the church resist the decrees of the civil tribunals, she is a rebel against Cæsar; but if after it she submit to these decrees, she is a rebel against Christ. In one way alone could she, when that announcement should be made, combine loyalty to an earthly sovereign with true allegiance to her heavenly King,—by dissolving her union with the state.

The only course that would remain to the Church, in the event of the State disregarding this appeal.

Such a solemn appeal to the legislature as has now been described, was at length about to be made. Before, however, this great and decisive step was taken, the assembly adopted a resolution condemnatory of the law of patronage. This alone had been hitherto awanting to complete her testimony as a thoroughly reforming church, and to bring her back into the very foot prints of her illustrious founders. The motion embodying this important resolution was made by the Rev. Mr. Cunningham, who all along had been the learned and uncompromising opponent of a system which had been the bane of the church of Scotland from the beginning,—and which now, by a new and more rigorous interpretation and enforcement of its claims, had been made the grand instrument for effecting the entire overthrow of her spiritual rights and liberties. In a speech distinguished equally by profound and accurate research, and by resistless force of argument, Mr. Cunningham arrayed against the whole

Rev. Mr. Cunningham's motion against patronage.

CHAP. XIV. system of church patronage the combined authority of scripture, of ecclesiastical history, of right reason, and the nature of things. Advancing at length to the place which patronage occupied in the existing conflict of the church. "We have now seen," he said, "its principles and its effects brought out in bold relief by the erastianism evinced in the decisions of the court of session. By these decisions we see clearly that patronage has been, and will yet be, used as a wedge to force an entrance into Christ's house. This is now proved beyond a doubt, by its being brought into actual established practice, on the ground of that secular interference which has now reached such a fearful extent, that I cannot believe, or imagine how, a single man in the house can attempt to justify the act of Queen Anne, on which the interference is professed to be grounded,—an act which should be regarded by every Scotsman with feelings of the utmost indignation and abhorrence. The decisions are not actually founded on the act of Queen Anne, or the precise terms it contains; it is not alleged that there is anything directly in that act by which such proceedings can be justified. Recourse has been had to an attempt at general reasoning, and it really is reasoning of a very sorry description. They have attempted to reason in this way—Here is a civil right, which is in some way involved in an ecclesiastical question,—we must give effect and protection to this civil right,—some court or other must certainly have the power of giving effect to it,—some court requires to have the power of keeping one party to the discharge of their duty, and of keeping to others their civil

Mr. Cunningham's speech.

The argument of the Courts of law in defence of their proceedings.

rights. This is all the extent of their reasoning. No one attempts to maintain explicitly that the court of session is the proper court,—or that, by the law of the land, any such court, with such powers, has been established. They content themselves with the statement, that so long as there is a civil right involved in the appointment of ministers, the church can never be relieved from the interference of the court of session in defence or protection of such civil rights. There can be no safety against such interference by any court so long as patronage is allowed to remain in any shape. They may have a majority of a civil court declaring that a civil right is involved, however moderated or restrained the exercise of patronage may be: the same interference may be carried on, however remote the civil interest may be in the question, and the only way for us to get rid of the evil is by the total, the absolute abrogation of the law of patronage." Mr. Cunningham accordingly moved, that the house "resolve and declare that patronage is a grievance, has been attended with much injury to the cause of true religion in this church and kingdom, is the main cause of the difficulties in which the church is at present involved, and that it ought to be abolished." The motion was seconded by Mr. Buchan, of Kelloe, a gentleman who hitherto, like many others, had striven for some limitation of patronage,—but who now found himself shut up to the conclusion, that a mischief that could not be restrained, must be destroyed. Dr. Chalmers had come to be of the same mind. There were still a good many, however, in the ranks of the non-intrusionists, who shrunk from

The abolition of patronage the only effectual preventive of this interference.

Mr. Buchan, of Kelloe, seconds the motion.

CHAP. XIV. this bold and decided course,—not so much from any reluctance to condemn patronage, as from a fear that the resolution proposed might increase the too evident disinclination of government to interpose. In order to secure the votes of this section of the assembly, the moderate party consented to support an amend-

The motion of the moderate party. ment, which went no further than to "find it inexpedient, *in present circumstances*, to adopt the overtures" for the abolition of patronage. By thus proposing to make the rejection of the overtures turn solely on the question of present circumstances, the supporters of the amendment virtually concurred in the condemnation of patronage. Notwithstanding,

The anti-patronage motion carried by 216 to 147. however, of this coalition against Mr. Cunningham's resolution, it was carried, upon a division, by 216 to 147. On the following day, it was agreed that this resolution should be printed among the acts of assembly. A minority had disapproved of the resolution,—but all would agree, said Mr. Cunningham, that the passing of it "constituted an era in the history of the church of Scotland."

The appeal to the legislature against the usurpations of the courts of law, to which allusion has been already made, was brought up for discussion on

The claim of rights Tuesday the 24th of May. It had been thrown, by those who had the charge of preparing it, into the form of an "overture to the general assembly, for a declaration against the unconstitutional encroachments of the civil courts." The drawing up of this memorable document, the modern "solemn league and covenant" of the church of Scotland, had been entrusted to Mr. Dunlop,—and seldom, if ever, was a task so weighty

and responsible, more admirably performed. Its style grave and perspicuous,—its tone calm and solemn,—its facts well chosen, accurately stated and lucidly arranged,—its argument direct and powerful,—its conclusion clear and resolute,—it must ever be regarded, by all intelligent and candid readers, as every way worthy of the great occasion on which it was to be employed, and of the remarkable event with which it is destined to be inseparably associated in the ecclesiastical history of Scotland.*

Style and character of the document.

"The general assembly of the church of Scotland," so runs its opening paragraph, "taking into consideration the solemn circumstances in which, in the inscrutable providence of God, this church is now placed; and that, notwithstanding the securities for the government thereof by general assemblies, synods, presbyteries, and kirk sessions,—and the liberties, jurisdiction, discipline, rights, and privileges of the same, provided by the statutes of the realm, the constitution of this country, as unalterably settled by the treaty of union, and the oath required to be taken by each sovereign, at accession, as a condition precedent to the exercise of the royal authority, 'inviolably to maintain and preserve the same,'—which securities might well seem, and had long been thought, to place them beyond the reach of danger or invasion,—these have been, of late, assailed by the very courts to which the church was authorized to look for assistance and protection, to an extent that threatens the subversion of the said liberties, government, and discipline, with

Its opening paragraph.

* This noble document will be found printed at full length in the appendix.

CHAP. XIV. all the grievous calamities to this church and nation which would inevitably flow therefrom,—do solemnly, and in reliance on the grace and power of the Most High, resolve and agree on the following CLAIM, DECLARATION, and PROTEST."

Authorities from the laws and standards of the Church, in support of the Church's claim.

Thereafter the document proceeds to recite, from the standards of the church, a series of passages in which the doctrines of the sole Headship of Christ over the church, and of the church's spiritual government by church officers, distinct from, and independent of, the civil power, are explicitly set forth. Next it specifies and quotes the leading statutes by which the foresaid doctrines and the exclusive spiritual jurisdiction flowing from them, *jure divino*, to the church, have been recognized, ratified, and confirmed. Further on it adverts to various civil rights and privileges which, by express acts of the parliament of Scotland, prior to the union with England, were secured to this church, —and to certain civil consequences which these acts attached to the sentences of the church courts,—sentences which were directed, by the acts in question, to be made effectual by all magistrates, judges, and officers of the law. Of the civil consequences thus made by statute, to follow upon the spiritual sentences of the church, the following, among others, are particularized:—That deprivation of office by the church shall, *ipso facto*, seclude a minister from all further right or title to the benefice he had, in virtue of that office, enjoyed,—that contumacy, on the part of a minister to his ecclesiastical superiors, shall be held to be a just cause of deposition, and that a minister deposed on this ground shall lose his stipend,

Authorities from the statutes of the realm.

—that ministers and preachers intruding themselves into vacant churches, without a legal call and admission thereto, is an high contempt of the law,—and that those who shall be deposed for this offence, if they shall exercise thereafter any act of their ministerial function, shall be held guilty "of a high contempt of the authority of the church and of the laws of the kingdom, establishing the same." In connection with the acts thus mentioned, and specially ratified by the treaty of union, the document proceeds to state, with great clearness, the right to approve or disapprove, which the revolution settlement and the treaty of union conceded and secured to congregations in the settlement of their ministers; and shows that, grossly as the act of Queen Anne infringed the treaty of union by restoring patronage, it made no pretence of touching the previously existing right of congregations to assent or dissent. It then goes on to notice the Auchterarder decision, and to point out how entirely that decision and subsequent proceedings, founded on it, traversed those limits within which the civil courts, for 150 years before, had confined their jurisdiction,—enumerating at the same time, in long succession, the array of facts on which this assertion rests. At this point it concisely and clearly states the numerous specific acts by which the civil courts, in the exercise of this novel jurisdiction, have overstepped their bounds, and invaded and usurped the jurisdiction belonging exclusively to the church,—summing up the enumeration thus:—"By all which acts, the said court of session have exercised powers not conferred upon them by the constitution, but by it

The non-intrusion principle and the act of Queen Anne.

The proceedings by which the civil courts had trenched upon the rights of the Church.

CHAP. XIV. excluded from the province of any secular tribunal,—have invaded the jurisdiction of the courts of the church,—have subverted its government,—have illegally attempted to coerce church courts in the exercise of their purely spiritual functions, have usurped the 'power of the keys,' have wrongfully acclaimed, as the subjects of their civil jurisdiction, to be regulated by their decrees, ordination of laymen to the office of the holy ministry, admission to the cure of souls, church censures, the preaching of the word and the administration of the sacraments, and have employed the means entrusted to them for enforcing submission to their lawful authority, in compelling submission to that which they have usurped,—in opposition to the doctrines of God's word, set forth in the confession of faith, as ratified by statute,—in violation of the constitution,—in breach of the treaty of union, and in disregard of divers express enactments of the legislature."

Summary of the civil courts' encroachments.

Having thus stated and summed up the charge which the church was prepared to bring against the courts of law, having noticed the fact that encroachments additional to those already mentioned were threatened, and having declared, that to carry on the government of Christ's church, under such a state of things, was impossible, the document thus concludes:—

THE CLAIM. "THEREFORE the general assembly while, as above set forth, they fully recognize the absolute jurisdiction of the civil courts in relation to all matters whatever of a civil nature, and especially in relation to all the temporalities conferred by the state upon the church, and the civil consequences attached by law to the decisions, in matters spiritual, of the church courts,

DO—in name and on behalf of this church, and of the nation and people of Scotland, and under the sanction of the several statutes, and the treaty of union herein before recited—CLAIM, as of RIGHT, that she shall freely possess and enjoy her liberties, government, discipline, rights, and privileges according to law, especially for the defence of the spiritual liberties of her people,—and that she shall be protected therein from the foresaid unconstitutional and illegal encroachments of the said court of session, and her people secured in their christian and constitutional rights and liberties. CHAP. XIV.

"AND they DECLARE that they cannot—in accordance with the word of God, the authorized and ratified standards of this church, and the dictates of their consciences—intrude ministers on reclaiming congregations, or carry on the government of Christ's church, subject to the coercion attempted by the court of session, as above set forth; and that at the risk and hazard of suffering the loss of the secular benefits conferred by the state, and the public advantages of an establishment, they must, as by God's grace they will, refuse so to do; for highly as they estimate them, they cannot put them in competition with the inalienable liberties of a church of Christ, which, alike by their duty and allegiance to their Head and King, and by their ordination vows, they are bound to maintain, 'notwithstanding of whatsoever trouble or persecution may arise.' THE DECLARATION.

"AND they PROTEST, that all and whatsoever acts of the parliament of Great Britain, passed without the consent of this church and nation, in alteration of, THE PROTEST.

CHAP. XIV. or derogative to the aforesaid government, discipline, rights, and privileges of this church (which were not allowed to be treated of by the commissioners for settling the terms of the union between the two kingdoms, but were secured by antecedent stipulation provided to be inserted, and inserted, in the treaty of union as an unalterable and fundamental condition thereof, and so reserved from the cognizance and power of the federal legislature created by the said treaty) as also all and whatsoever sentences of courts in contravention of the same government, discipline, rights, and privileges, are, and shall be, in themselves void and null, and of no legal force or effect; and that while they will accord full submission to all such acts and sentences in so far, though in so far only, as these may regard civil rights and privileges, whatever may be their opinion of the justice and legality of the same, their said submission shall not be deemed an acquiescence therein, but that it shall be free to the members of this church, or their successors, at any time hereafter, when there shall be a prospect of obtaining justice, to claim the restitution of all such civil rights and privileges, and temporal benefits and endowments, as for the present they may be compelled to yield up, in order to preserve to their office-bearers the free exercise of their spiritual government and discipline, and to the people the liberties of which, respectively, it has been attempted, so contrary to law and justice, to deprive them.

THE CONCLUSION. "And, FINALLY, the general assembly call the christian people of this kingdom, and all the churches of the reformation throughout the world who hold the

Appeal to the Churches of the reformation.

great doctrine of the sole Headship of the Lord Jesus over his church, to witness that it is for their adherence to that doctrine, as set forth in their confession of faith, and ratified by the laws of the kingdom,—and for the maintenance by them of the jurisdiction of the office-bearers, and the freedom and privileges of the members of the church from that doctrine flowing, that this church is subjected to hardship, and that the rights so sacredly pledged and secured to her are put in peril; and they especially invite all the office-bearers and members of this church, who are willing to suffer for their allegiance to their adorable King and Head, to stand by the church, and by each other, in defence of the doctrine aforesaid, and of the liberties and privileges, whether of office-bearers or people, which rest upon it; and to unite in supplication to Almighty God, that He would be pleased to turn the hearts of the rulers of this kingdom, to keep, unbroken, the faith pledged to this church in former days, by statutes and solemn treaty, and the obligations come under to God Himself, to preserve and maintain the government and discipline of this church in accordance with His word,—or otherwise that He would give strength to this church, office-bearers, and people, to endure resignedly the loss of the temporal benefits of the establishment, and the personal sufferings and sacrifices to which they may be called, and would also inspire them with zeal and energy to promote the advancement of His Son's kingdom, in whatever condition it may be His will to place them; and that, in His own good time, He would restore to them these benefits, the fruits of the struggles and

To the office-bearers and members of the Church of Scotland.

To the Most High.

CHAP. XIV. sufferings of their fathers in times past in the same cause, and thereafter give them grace to employ them, more effectually than hitherto they have done, for the manifestation of His glory."

Such were the solemn terms in which the harassed and injured church was now preparing to make her final appeal to the supreme power of the state. No one will say, who reads these closing paragraphs, that the trumpet gave an uncertain sound. If those concerned did not "prepare themselves for the battle," it was not the fault of the general assembly. Never, perhaps, did the manifesto of any public body employ less ambiguous words, or indicate more explicitly the course they designed to pursue. The overture in which it was embodied, had been printed some time before. Full leisure had been given to the members of the house to study it, and to consider well before the discussion of it came on, whether they could conscientiously subscribe to its statements, and were prepared to bind themselves, before God and men, by the engagements which it contained. When laid upon the table of the assembly, it bore the signatures of no fewer than a hundred and sixty-one members of the house.

The trumpet gives a certain sound.

"I am glad," said Dr. Chalmers, who took the lead in this momentous debate, "that the putting forth of a claim of rights should be moved for in the general assembly. I liked the proposal from the time I first heard it; and more than ever are we now shut up to the necessity of such a measure. The court of session persists in, nay, is fast multiplying its encroachments. But the crowning necessity for a full and formal repre-

Speech of Dr. Chalmers in moving the adoption of the claim of rights.

sentation of our case before the country at large, is— that we have been refused a hearing by parliament. The disposition, in high places, is to leave the church altogether in the hands of the court of session, to proceed against her *ad libitum*, or to any extent that might seem unto them good; and this is called leaving the law to take its course. They would abandon one court to the entire mercy and discretion of another; and this they term being satisfied with the law as it stands. The question whether each court might not have its own proper and certain limits prescribed by the constitution, or whether these limits might not possibly, yea, have not actually been transgressed,—this is a question which they have not looked at, and will not listen to. Thus given up, thus abandoned, it seems our last expedient to make the solemn appeal which we now meditate, to the intelligence, and the conscience, and the good faith of all men." The speaker proceeded to comment on the way in which distinguished members of the government had, in their places in parliament, dealt with this great question. When Mr. Campbell of Monzie's motion for a committee of inquiry was before the house of commons, the church was spoken of as divided on this great question of her proper and rightful jurisdiction,—and it was said if they granted the committee, they would have to examine men of all parties in the assembly. On the other hand, they took no account of the divisions that existed on the other side of the question, in the court of session. They assumed that the voice of a majority, albeit of an overwhelming majority, was not the voice of the church; but they took it, as if it

The way in which the Church has been treated by men in power.

Government, in dealing with this question, apply one rule to the Church and another to the courts of law.

CHAP XIV. were a matter of course, that the voice of the barest possible majority of the judges was the voice of the courts of law. "Why," demanded Dr. Chalmers, "not call up my lord Fullerton, or my lord Jeffrey, or my lord Moncrieff, to give account of their respective opinions on the one hand, along with my lords Gillies or Cunninghame upon the other? But that is never done with any court that I know of. The sentence, and the legal effect of that sentence, passed by however small a majority, is the all in all that is proceeded on,—not the different views or meanings of the different members. Why, then, should the church be singled out for another sort of treatment?—the sentiments of her different members only had respect to, not the sentences of her courts, although sentences passed by a far larger (proportional) majority than in the court of session,—nay, far larger than can be alleged by the premier himself, backed and supported as he is in the house of commons,—whose decision, at the same time, is omnipotent, within its own sphere, although he had but the majority of one upon his side. What means this contrary method of dealing with the church?—as if in her case, and in hers only, every principle of constitutional law might be given to the winds; and, at the arbitrary choice either of courts or parliaments, her place in the statute book may, *brevi manu*, be cancelled and blotted out at any time, and she be thus treated and disregarded as a thing of no standing whatever, in the constitution of these realms."

Dr. Chalmers comments on this injustice.

Having made some observations on the statutory recognition, by acts and solemn national treaties, of the church's spiritual freedom generally, and of her

exclusive jurisdiction in those very matters that were now in dispute, Dr. Chalmers proceeded to animadvert on the equally unjust and ungenerous assumption that *might* and *right* must, in this case, be the same. The church had no coactive power, and therefore she must be in the wrong. The court of session has many stern compulsitors, by means of which to enforce its decrees against the church,—and therefore it must be in the right. "Let me tell them that reason thus,"—he said, breaking forth into one of those bursts of whirlwind-like vehemence in which the intellectual force and moral earnestness of his nature so often displayed themselves,—"let me tell them, that never were any doings transacted on a public arena, seen and read of all men,—never were any more fitted to loosen the cement which binds together our social fabric,—never any more directly fitted to loosen and unsettle the foundations of all social order, than the doings of these few past years against the church of Scotland. For, first, sir, as has been well said by an eminent conservative lawyer, the member of a court should no more be reckoned with for his vote, than the member of a jury; and that to punish a court for its sentence, is just as glaring a violation of principle, and strikes as much at the root of all justice in society, as to punish a jury for their verdict. The legislature may remodel, or even put down any of those civil courts which itself hath constituted; or may withdraw the recognition itself hath given to those ecclesiastical courts which it may have been pleased to legalize,—and so, if the church of Scotland have, by the perversity of her courts, become a nuisance in the land, may disestab-

The assumption that the Church must be wrong, because might makes right.

The application of that doctrine to Church courts, strikes at the root of justice.

CHAP. XIV. lish her: and we only want that deed of the supreme magistrate which is to strike her out from the place which she now occupies in the national system. But while we stand on our present footing, for any inferior judges or magistrates to lift the hand of violence against us, and that for the part we conscientiously take in the business of her presbyteries and general assembly,—this, sir, is greatly worse than for a man in the walks of ordinary life, to lift up the hand of violence against his fellow. It is a blow struck, not at a mere individual, but at one in the sacred character of a functionary,—an outrage done on the higher platform, and against the principles, of constitutional law,—the act of tyranny having in it the character of rebellion,—and so the most directly fitted of ought I know, to let down, as from higher to lower places, the infectious spirit of rebellion and crime on the ground floor, as it were, of general society. For, again, sir, what have these advocates and precious friends of order been doing for some years past? They have, if not by direct instigation, at least by their countenance and favour, been encouraging the insubordination both of our lower judicatories and of many individual clergymen,—so stirring up all the confusion and anarchy they possibly can within the church of Scotland. It has begun here: I ask, will it end here? Will this truly perilous example spread no farther? And now that the practice of trampling down majorities has been so conspicuously set, is there no danger of imitators springing up in other quarters, and bidding defiance to the majorities of other courts, even should it be the high court of parliament? But lastly, we

It is a doctrine that encourages rebellion against all constituted authority.

The dangers that may ensue.

Lord Fullerton's remark on what is due to the defenceless party.

may be told over again of a failure in our analogy, because the civil courts have, while the ecclesiastical have not, the means of enforcement,—the very reason, as was beautifully said by my Lord Fullerton, why the constitutional rights of the church, as being the defenceless party, should be all the more sacredly respected. But, sir, if these be the maxims which are henceforth to prevail—if the weak, because weak, are thus to be overborne,—and every voice of remonstrance from them to be unheard,—if the aphorism of 'might is right' is now to be acted on by men in authority,—there are men not in authority who may learn from their example to act upon it too,—and in whose doings, when only let slip over this our fair and well-ordered territory, that saying of holy writ might find its fearful verification—'If such things be done in the green tree, what shall be done in the dry?' God may please, sir, in the exercise of a wise and holy discipline, thus to afflict our church, and bring it to the trial of her faithfulness,—insomuch, that for not giving the things of God unto Cæsar, for her adherence to this sacred principle, she may be made to suffer that worst of all violence—the violence of iniquity under the forms of law: and this, too, because the force of law is on the side of her adversaries.

The lawless may come to learn the lesson thus taught them in the name of the law.

But, sir, if with this argument of force, now in the mouths of senators and magistrates, judgment is to begin at the house of God,—when this very argument passes into the mouths of the lawless and disobedient, of the ungodly and sinners, what, I ask, shall the end be? or where shall tyrants and persecutors appear after that their own wicked and worthless argument,

CHAP. XIV. taken up by men who have the strength of millions upon their side, is heard in a voice of thunder, or pours itself forth in some wide-spread war of turbulence and disorder, over the face of our commonwealth?"

Dr. Gordon seconds the motion.

"I second the motion for the adoption of this overture," said Dr. Gordon, rising when Dr. Chalmers sat down, "with a hope which I am not willing to relinquish, that when our claim of right is brought before an enlightened legislature,—before high-minded and honourable men,—they will not refuse, at least, a patient perusal of that claim; and I have the conviction, which I am as little willing to relinquish, that if they do give to it a patient perusal, they will see the justice, and therefore the policy of acceding to it. But, sir, if unhappily it should be otherwise,—if they

His speech.

have resolved on refusing to grant what we think reasonable on our part to ask, I feel for one, that we are bound, as honest men and as christian ministers, with all calmness and with all respect, but with all firmness and determination, to tell them, that we cannot carry on the affairs of Christ's house under the coercion of the civil courts; and, however deeply we may deplore the loss of those advantages which we derive from our connection with the state, if ultimately the legislature determine that they will not listen to our claim, then those advantages we must relinquish, because we could not hold them with a good conscience."

The supporters of the overture were curious to know in what way it would be met by its opponents. Would they dispute the facts,—or would they justify the facts,—on which the overture proceeded? They

took a more convenient course,—they treated the wounded and bleeding church, as the priest of the parable treated the man who had fallen among thieves, —they passed by on the other side. Their amendment never looked at the overture, or at the great question which it so solemnly raised. It took the form of a series of resolutions. The first set forth, that "as the act on calls, commonly denominated the veto-act, infringes on civil and patrimonial rights," it should be declared "null and void." The second announced, that while the members of this church were at one in believing that Christ is the Head of the church,—that its government has been placed by Him in the hands of church officers, distinct from the civil power, and that the "intrusion of unqualified or unsuitable ministers is decidedly at variance with the principles of the church," yet that in the application of these doctrines there was room for "conscientious diversity of opinion," and that such diversity was no reason "for those who may so differ, separating from each other." A very good-natured certainly, but a somewhat latitudinarian conclusion. The third went on to say, that "such being the case," the existing agitation ought to cease, and that "ministers should devote themselves chiefly to the regular and assiduous discharge of their pastoral and parochial duties." "Is Saul also among the prophets?" it might well have been said, in listening to this pious advice. But last of all, by way of crowning the climax of irrelevancy and extravagance, which the series combined to form, the fourth resolution summed up the whole matter with this grave assurance, that

CHAP. XIV.

The opponents evade the motion.

The resolutions proposed as an amendment. Their singular character.

CHAP. XIV. "there exists at present great security against the settlement of unqualified and unjustifiable ministers, whilst ample opportunities are afforded to the office-bearers of the church, as members of the different ecclesiastical judicatories, to propose, in a legal and constitutional manner, any measures which may appear to them calculated to increase that security." In short, according to these singular resolutions,—the conflict now going on was a pure mistake,—the adversaries of the church, against whose encroachments and usurpations she had been contending for years, were as much the creatures of imagination as the giants of Don Quixote,—the court of session was as harmless as the windmill, whose flappers never moved an inch beyond their legitimate round, and which unhorsed the unhappy knight of la Mancha in spite of themselves, and only because he wilfully rode up against them,—and as for the Strathbogie ministers, they were as innocent as the poor sheep which fled from the thunders of Rosinante's tread! But was it really so? Was it a delusion that a presbytery had been dragged to the bar of a civil tribunal, and its members threatened with a jail for laying their hands on a licentiate of the church and ordaining him to the office of the holy ministry? Was it the fancy of a fevered brain that the court of session had prohibited the preaching of the gospel, even in the open fields? Were the shameful scenes of Marnoch and Culsalmond nothing but the nightmare phantoms of a dream? Were Lords Brougham and Cottenham mere scarecrows, dressed up in full-bottomed wigs, to frighten childish non-intrusionists? Had many of

According to these resolutions, the whole conflict of the Church was founded in mistake.

The Church's dream.

the first intellects of the age been struggling, as in a matter of life and death, to break imaginary fetters, and to gain liberties which they already enjoyed? It is hard to believe all these things,—but no doubt the framer and supporters of those four famous resolutions must have found out a way to compass this great act of faith.

A great act of faith compassed by the framer and supporters of these resolutions.

The adoption of the resolution was moved by Dr. Cook. After going over the old ground of the veto-law, and expatiating with considerable warmth on the evils of agitation and strife, he came at length to the important question of the doctrine of Christ's Headship, touched in his second resolution. "What I maintain then is," he observed, "that when the general doctrine that Christ is the Head of the church is conscientiously held,—there is nothing wrong in believing that there may be ground for diversity of sentiment as to what is comprehended under that Headship in all cases, or particularly where there are not express and unambiguous declarations of scripture upon the matter: and consequently that the members of a church may remain in the same communion, although they are not agreed under the view of the matter which I have taken as to the extent of the Headship, or as to what must be embodied in it. Holding the Head as we all do, it is quite natural and right that the members of a church should, by constitutional means, or by the influence of representation and argument, endeavour that their own notions upon this subject may be embraced by the whole church: but this is merely what takes place as to all points as to which men differ,—and differ without once imagin-

Dr. Cook's speech.

CHAP. XIV. ing that the difference dissolves the social or religious ties by which they are related. Much as we have of late heard of *spiritual independence*, and much as has been spoken and written about it, it is still of moment to define it, or to endeavour to form clear notions of what is really included under it." This appears very much the same thing as to say, that if the office-bearers of a church will only consent to sign its creed, they may disagree as much as they like, about the true meaning of the articles which that creed contains. If this licence be good, as regards one great cardinal doctrine, it must be equally so as regards every other. Let Dr. Cook's words be applied, for example, to the doctrine of Christ's mediation,—to the *eighth* instead of the *thirtieth* chapter of the confession of faith,—and how will they read? "What I maintain then is, that when the general doctrine that Christ is the mediator is conscientiously held,—there is nothing wrong in believing that there may be ground for diversity as to what is comprehended under that mediatorship in all cases, or particularly where there are not express and unambiguous declarations of scripture upon the matter." The church of Rome finds it quite possible to hold "the general doctrine," that Christ is the mediator, and yet so to differ as "to what is comprehended under it," as practically to make the doctrine void altogether. Would Dr. Cook have ventured to say, that because papists and protestants hold, in common, this general doctrine of Christ's mediatorship, their diversities of opinion as to what it does, or does not include, should not separate them from one another? He might indeed have said, and truly, that

Dr. Cook's notion of what is implied in signing a creed.

His latitudinarian theory about creeds, applied and illustrated.

the protestant confession defines the doctrine of the mediatorship in a way that points out the sense in which every honest protestant must be understood to hold it—a sense not to be reconciled with the creed, on the same point, of the church of Rome. But is it not so, that the confession of faith defines quite as explicitly the doctrine of the Headship of Christ, and declares, as clearly, what is included under it? Does it not declare, that the Headship is a doctrine which includes under it the separate standing of the church as a kingdom not of this world,—its distinct government in the hands of church officers—the exercise, by these officers, of the entire power of discipline, and in particular their authority to admit to, and exclude from the privileges of the church,—to lay on, and to take off spiritual censures,—and generally to administer the whole "power of the keys." And does not the confession make the line which circumscribes what is embraced in this doctrine of the Headship, still more marked and prominent,—by declaring expressly, that "the administration of the word and sacraments," and "the power of the keys of the kingdom of heaven," are matters which "the civil magistrate may not assume to himself." No wonder that in referring to this part of Dr. Cook's speech, Mr. Dunlop should have remarked, that "he was unable to ascertain in what sense Dr. Cook held the doctrine of the Headship of our Lord, excepting that it was a sense which might be compatible with various opposing opinions on the part of others."

No room for such laxity left by the Confession of Faith.

Mr. Dunlop's remark on Dr. Cook's speech.

"Those who preceded me in this debate," said Mr. Dunlop, after a few opening sentences, among which,

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Mr. Dunlop expounds the claim of rights.

the one already quoted occurs, "dealt with the subject on high grounds of principle. I have a humbler task in addressing myself to acts of parliament. Still these acts are not ordinary statutes. They touch matters of high and holy interest. They are the homage which the kings of the earth have paid to the King of kings,—the deeds of nations acknowledging the truths of the living God,—bulwarks raised by men in the exercise of the authority which God has given to princes, to fortify and protect the authority which He has committed to His church." The points embraced in the course of the learned and perspicuous legal argument which he thereupon addressed to the house, were these:—The *recognition*, by the statute law of Scotland, of the exclusive jurisdiction of the church in matters spiritual and ecclesiastical. The absolute *exclusion* of the jurisdiction of the secular courts, or of the interference of any secular power. The statutory *injunctions* on the civil courts and officers of justice, to aid, in their own province, in carrying into execution the sentences of the church courts. The *securities* for the exclusive jurisdiction of the church contained in the act of security, the treaty of union, and the oath of the sovereign on accession to the throne. And lastly, the *infringements* on these rights, by the act of Queen Anne, and the more recent invasions of the court of session. In a word, there was condensed into this able speech, the substance of that whole legal and historical argument, which it has been one of the objects of this work to develope and apply. To go over it here, were only to repeat what must now be tolerably familiar to the reader's mind.

Summary of his statement.

When speaking of the late proceedings of the courts of law, Mr. Dunlop took occasion to refer to the chapel-act, on which certain of these proceedings were based, and to remind Dr. Cook that he had himself supported a measure essentially the same, when in 1833 he had moved for the admission into church courts of the ministers of the parliamentary churches. Hereupon "Dr. Cook observed, that though, as convener, he had signed the report recommending the act which was thus passed, he had stated that he did not agree with the report, so far as regarded the allowing the ministers of these churches to sit in church courts." "My impression," answered Mr. Dunlop, "has been different; I had always supposed that Mr. Pirie of Dyce, who alone entered a formal dissent, was the only individual who differed from the report. Certainly Mr. Pirie has always plumed himself as being the only man who had dissented against that vote; but we now find that the rev. doctor is entitled to strip him of part of the honours which for some years he has regarded as peculiarly his own." Dr. Cook having repeated his statement, Mr. Dunlop went on to say, "The committee which made that report was composed, besides Dr. Cook, of Dr. Inglis, Messrs. Forbes, Grant, and many other gentlemen on the other side of the house, and also of several judges of the court of session, and distinguished members of the legal profession, such as the late Lord President, Hope, the present Lord President, Boyle, the present Lord Justice Clerk, Hope. I forget them all; but there was a host of judges and lawyers, and not one of them in the committee, or out of the committee,

Mr. Dunlop reminds Dr. Cook of the part he had taken in passing the parliamentary Churches' act of 1833.

Mr. Dunlop replies to Dr. Cook's explanation: and repeats his statement.

CHAP. XIV. ever hinted that we were infringing the constitution of the church or the laws of the land."

Towards the close of his speech, Mr. Dunlop addressed himself to the two motions before the assembly. In reference to that of Dr. Cook, he shewed that the remedy which it proposed did not, and could not meet the case. "Supposing, for a moment, that the veto-act were repealed, will this settle all the questions now in dependence? It will not settle the power of the court of session to suspend the censures of the church, to prohibit the preaching of the word, and other ecclesiastical functions. It will not settle the question as to *quoad sacra* ministers; nor the many cases which, since the first collision, forced on us by other parties, they have gone on raising against us, affording opportunity to the court of session to give decisions and lay down principles which must be removed out of the way, if this church is to administer her affairs according to the laws of Christ's house; so that the motion of the rev. doctor will not answer the purpose intended by him, and as a basis for restoring peace to the church, it is difficult to understand how the rev. doctor should ever have represented it as such." Having contrasted with that inept proposal the admirable fitness of the motion of Dr. Chalmers, Mr. Dunlop concluded thus:—"I was, perhaps, for a time too much inclined to seek for peace by an abandonment of our position as an establishment, and at once to secure the freedom of carrying on the ordinary labours of a church without molestation, by relinquishing the temporal advantages which were made an excuse, however unjustly, for

Remarks on the motion of Dr. Cook.

That motion will not settle the Church's difficulties.

Conclusion of Mr. Dunlop's speech.

interfering with us. I have, of late, however, been learning another, and I trust a better lesson,—the duty of maintaining, as long as we can maintain, the vantage ground we now possess for exhibiting and establishing the true nature of the right connection between a christian church and a christian state. Even since this assembly met, additional motives to this course have been presented to us. Our forefathers secured, in this corner of christendom, the recognition, by the state, of the spiritual independence of the church, showing how the church—acknowledging the implicit obedience due to the temporal power in matters temporal—may yet, while supported and aided by the state, conduct her own government and advance the cause of religion in spiritual freedom and independence, with mutual harmony and peace. They thus obtained for the church of Scotland a position among the governments of the nations, which she has ever since retained. Other free churches which were refused an entrance, unless at the sacrifice of their liberties as churches of Christ, seemingly hopeless of attaining it, had begun to oppose all connection whatever between the kingdoms of the earth and the kingdom of the King of kings of the earth. Almost abandoned by all who, like ourselves, maintained the independence of the church, the powers of the world deemed us an easy prey and strove to drive us from our stronghold. From the very walls erected for our security they have assailed us, and the guards set to protect us have used the weapons entrusted to them for our defence to conquer and enslave us; but the din of the contest has recalled the multitudes who had almost forgotten

Importance of the struggle in which the Church is engaged.

CHAP. XIV. Sympathy of other Churches.

our existence, to a sense of the importance of the post which we occupy. The sympathies of christians in every part of the world are turning toward us; in this assembly, from England, from Ireland, from America, from Switzerland, from Prussia, we have encouragement by letter, or by the personal presence of ministers of the gospel, all deeply sympathizing with us in our struggle for the rights of the church of God in connection with the kingdoms of the earth; defending the citadel which, as a protestant establishment, we possess, we afford a rallying point to the christian world, and through it the churches of Christ may yet establish themselves in the fortress of the world's power, and obtain universally a national recognition of the free and rightful dominion of our great Head and King."

After several other speakers had addressed the assembly, the Rev. Mr. Robertson, of Ellon, rose. In the course of his speech, he made the important admission, "in reference to the general interdict in the Strathbogie case," that he held that interdict to have been "an incompetent one, incompetent on the part of the civil power, inasmuch as it condescended on certain specialities which did not, perhaps, fall within the province of the civil power to take cognizance of." With strange inconsistency, however, Mr. Robertson maintained that though it was incompetent for the civil court to grant such an interdict, "yet, that in applying for that interdict, the majority of the presbytery of Strathbogie did nothing but what was right." The interdict was granted in the very terms of their prayer,—and if it was wrong in the secular tribunal,

Rev. Mr. Robertson of Ellon, admits that the Strathbogie interdict was incompetent.

by granting it, to make an invasion upon the spiritual province of the church,—how much more wrong for ministers of the church to solicit that invasion, and thus ultroneously to become the direct agents in breaking down that ecclesiastical authority which they had sworn at all hazards to uphold.

His inconsistency on this subject.

Nearly three hours after midnight, when the early dawn of a summer's day was already dimming the lights in St. Andrew's church, where the assembly was convened, the debate was closed, and the overture was adopted by a majority of 131,—the numbers being, for the motion of Dr. Chalmers 241, and for that of Dr. Cook 110.

Claim of rights carried by 241 to 110.

The CLAIM, DECLARATION, and PROTEST, which the overture embodied, had now therefore become the claim, declaration, and protest of the church of Scotland. By that solemn instrument the church took all men to witness, that there was now but one or other of two alternatives before her,—either to get her claim acknowledged and allowed by the legislature, or to abandon her civil establishment.

During the sittings of this assembly, various cases connected with the great conflict, to which the claim of right referred, came up for decision. The settlement of Mr. Middleton, who had been intruded in a manner so outrageously in violation of the laws of the church upon the parish of Culsalmond, was set aside. The ministers who had fraternized with the deposed recusants of Strathbogie were suspended from the exercise of their judicial functions, as members of church courts, till the March commission of the following year. The Rev. Mr. Livingston, of Cam-

Other proceedings of this Assembly.

CHAP. XIV. busnethan, who had been convicted by his presbytery of theft, was deposed from the office of the ministry. The court of session had interdicted the presbytery from deposing him, on the plea that the chapel-act had brought into his presbytery certain ministers of *quoad sacra* churches, and that these ministers had no legal right to take part in the government of the church. The presbytery had referred the case of this new interference with the spiritual functions of a church court to the assembly, and the assembly took the matter into their own hands, and, by a unanimous decision, pronounced upon the unhappy individual the sentence already named. Mr. Clark, the presentee to Lethendy, who still continued in an attitude of defiance to the authority of the church, was deprived of his license. The Rev. Mr. Wilson, of Stranraer, who had been charged and found guilty by his presbytery of divers acts of fraud, and who had betaken himself, as was now the common practice with persons in his unfortunate position, to the civil courts for protection against the exercise of that discipline to which he had by his ordination vows bound himself to yield,—was deposed from the office of the ministry.

Vigorous exercise of Church discipline.

In a word, with a firm and unflinching front, the church, in this noble assembly, stood upon her border, and, to use the language which Dr. Chalmers borrowed from an apostle,—"gave place by subjection, no, not for an hour,"—to any one of the encroachments attempted to be made upon her spiritual province.

Before the assembly rose a resolution was adopted, on the motion of Mr. Dunlop, to transmit a copy of the church's claim of rights to her majesty the queen.

In seconding the motion, Mr. Makgill Crichton said —"That able document contained an admirable digest, not only of the law of the case, but a full and concentrated statement of the arguments of the case. Not only was its adoption by this house an honour to the church which sanctioned it, but the sentiments which it avowed were an honour to the modern Warriston by whom the document was drawn up. He (Mr. Crichton) was persuaded that gentleman's name would stand connected with this document, and be remembered with gratitude by the church, long after all in the assembly had gone to their fathers." Mr. Bruce, of Kennett, was so filled with admiration of this memorable document, that he urged upon the assembly the propriety of expressing to the writer of it "their decided approbation of the manner in which it had been drawn up, and their feeling of satisfaction with that gentleman for his zeal and devotedness to the interests of the church in this matter." Mr. Dunlop, with his characteristic sense of propriety, entreated the assembly to forbear from naming any individual in connection with the document, the authorship of which must now be presumed to belong to the house. On the evening of the same day, Monday, the 30th May, the queen's commissioner was requested by the moderator, in the presence and on the part of the assembly, to transmit the address embodying the claim of right to her majesty. His Grace at once agreed to do so, and also undertook to convey to the same high quarter the petition of the assembly for the abolition of patronage. In consenting to execute this task, his Grace spoke in the

Mr. Makgill Crichton's eulogy on Mr. Dunlop.

The Queen's Commissioner agrees to convey the claim of rights, and the petition against patronage to the Throne.

CHAP. XIV.

His Grace's speech in consenting to undertake this duty.

following terms:—"I shall have the honour of transmitting the address to her majesty, and likewise the petition: but I desire it to be distinctly understood, that in so doing I express no approbation." On the 17th of June, the Marquis of Bute fulfilled his promise by placing the claim of right and the petition against patronage in the hands of Sir James Graham, secretary of state for the home department, "in order to be submitted to the queen." In a letter addressed to his lordship on the 20th of the same month, and which was immediately afterwards communicated to the moderator of the general assembly, Sir James made the following reply:—"If the presentation of these documents to the queen implied, in the least degree, the adoption of their contents, I should not hesitate to declare, that a sense of duty would restrain me from laying them before her majesty: but as the language used in the two addresses is respectful, and as the inclosure purports to be a statement of grievances from the supreme ecclesiastical authority in Scotland, I am unwilling to intercept their transmission to the throne. I shall, therefore, lay before the queen your lordship's letter, with all the documents accompanying it, declaring, at the same time, that this act is not to be regarded as any admission whatever of the claim of right, or of the grievances which are alleged." Even if Sir James had not been at such pains to guard himself upon the subject, it is not probable that any one would have fallen into so great a blunder as that of imputing to him a sympathy with the reforming principles, and the spiritual rights and liberties of the church of Scotland.

Letter of Sir J. Graham to the Marquis of Bute, in reference to the claim of rights, &c.

A few days before this correspondence took place, the government, by an act more significant of their spirit than creditable to their character, had sufficiently marked their unabated opposition to the church. Having entirely failed to realize the expectation they had led Mr. Campbell, of Monzie, to entertain that they would bring forward some legislative measure of their own, for the settlement of the church's difficulties, all the requisite preparations were made for bringing on the second reading of his postponed bill. A muster had been made of its friends, some of whom, like Mr. Rutherford, the former lord advocate, had hurried up from Scotland, and put themselves to great inconvenience, in order to take part in the anticipated discussion. The 15th of June, the day till which, at the special request of the government, the second reading of the bill had been deferred, at length arrived: but the speaker of the house had meanwhile made a discovery, of which advantage was immediately and ungenerously taken, to get rid of the bill altogether. The object of the bill was to modify the law of patronage. The crown holds the patronage of a number of the churches to which the bill was intended to apply: and no bill which affects any of the rights of the crown can be introduced into parliament till the consent of the crown has been obtained. No wonder that when this sudden discovery was as suddenly announced, Mr. Campbell should have expressed both regret and surprize. "He certainly was not prepared for the objection, because the heading of his bill was precisely the same as that which was in the other house last year, and it was not there

Second reading of Mr. Campbell of Monzie's bill.

Discovery made by the Speaker of the House of Commons, that the bill cannot be proceeded in without the consent of the Crown.

CHAP. XIV. objected to: neither had any objection been taken to it in this house, the house of commons, where it had been read a first time." The objection, however, was not insuperable, and accordingly, Mr. Maule put the question to Sir Robert Peel, whether he would not use the prerogative which he undoubtedly, as the first minister of the crown, possessed, to put this purely technical objection aside. "He believed that it was in the power of the right honourable baronet to waive or to remove that objection, if he thought fit to do so. * * * He would now ask the right honourable baronet whether he meant to avail himself of that objection, or whether he would waive the objection so far as to allow the discussion of the measure to take place that evening." Sir Robert Peel replied, that "he had never heard of this objection till about an hour before. * * He was by no means unwilling to enter into the discussion on the subject, but he never would be a party to a constructive consent of the crown, either with reference to a grant of public money, or to any other question whatever, where the prerogative of the crown was concerned." This, to say the least of it, was not a generous course. "One thing must strike the mind in relation to this subject," observed the London Record, commenting upon it at the time, "the church, whether right or wrong, is so persuaded that she is right, that what she seems to desire above most things, is a free and full discussion of the subject in the British legislature: while her opponents, by one means or other, have repeatedly contrived to defeat this legitimate and laudable desire, —some weeks ago by Sir Robert Peel giving her

Mr. Campbell expresses his surprise.

Mr. Maule asks Sir R. Peel to waive this objection. Sir R. Peel refuses.

Remarks of London Record on this affair.

friends reason to believe that he would introduce a bill which the church, according to her recorded principles, could act upon,—and now by an objection which he had it in his power to remove, by giving, on the spot, the sanction of the crown to the progress of the bill." Such proceedings are as little honourable to the straightforwardness as to the statesmanship of Sir Robert Peel. They serve to show how little he appreciated the real worth and magnitude of the interests that were now at stake. To out-manœuvre his opponents by a skilful use of parliamentary tactics was not, in a case of this kind, the policy of either wisdom or patriotism. One use it served, and this in all probability was the use chiefly intended by it,—it gained time for the expected progress of that defection to which Sir Robert Peel and his colleagues, Lord Aberdeen and Sir James Graham, seemed now to be looking, as destined to solve all the difficulties of the Scottish church question.

Theory of this throwing out of the bill.

Not long after this period, an event occurred that was destined to put an end to the period of negotiation, and to bring the whole conflict to a close. Reference has already, more than once, been made to the fact, that a second Auchterarder case had, for some time, been running its career through the courts of law. In this second case, Lord Kinnoull and Mr. Young were again the pursuers: and the object of their suit was—to obtain a decree requiring the presbytery of Auchterarder to take Mr. Young, the rejected presentee, on trials,—and sanctioning his claim for damages, in the event of their refusing to obey, in this spiritual matter, the order of the civil courts. On the

Second Auchterarder case.

CHAP. XIV. 9th of August, the final judgment in this case was pronounced by the house of lords: and the judgment was in favour of the pursuers. The amount claimed by Mr. Young, in name of damages, was £10,000. The sum to be actually awarded to him would, of course, remain to be determined by a jury; but by this decision the vitally important principle was conclusively settled—that the courts of the church were liable to be coerced by the pains of law, in the performance of their spiritual duties. The judges who pronounced this decision were Lords Lyndhurst, Cottenham, Brougham, and Campbell; and it is a striking and significant fact, that from one end to the other of their judicial opinions, there is not to be found so much as one solitary reference to those laws by which the spiritual jurisdiction of the church of Scotland is declared and ratified,—nor one single precedent adduced from the history of the church of Scotland, to support the doctrine which this decision laid down.*

Amount of damages claimed by Mr. Young.

Decision of House of Lords in favour of the pursuers.

At a meeting of the presbytery of Edinburgh, which took place about ten days after the decision was given, attention was called to it by Dr. Candlish, and to its bearing on the principles and duty of the church. "This," said he, "was a decision of the civil court to which, in no shape, could the church render obedience,—to which the presbyteries of the church could not render obedience. The former judgment in the Auchterarder case was one to which they could render

Dr. Candlish's speech in Presbytery of Edinburgh on this decision.

* Vide "Speeches of the Lord Chancellor, &c., in the Appeal of the Presbytery of Auchterarder against the Earl of Kinnoull and the Rev. R. Young, with the Judgment of the House of Lords. Edinburgh: W. Blackwood & Sons, &c., 1842."

obedience; because, for anything that appeared in that judgment, the decision might have been intended simply for the regulation of proceedings with respect to the temporalities. The church therefore declared, that she could render obedience to that judgment, in that view of it, as a judgment finally disposing of the temporalities of the benefice of Auchterarder. No doubt there were indications, even in that judgment, that the civil courts were about to stretch their powers beyond their just limits; but the judgment bore nothing more on the face of it than he had just stated. This new decision, however, finding a presbytery guilty of an offence or crime in civil law,—liable in damages for rejecting a presentee on the dissent of a major part of the congregation, was a decision which, in no sense whatever, could they obey,—for it was not obeying the decision to reject the presentee, and then to suffer the penalty. The amount of the judgment was this—that the civil courts had jurisdiction to lay down for the church this particular rule, for their authoritative guidance in the discharge of their spiritual functions of trying, ordaining, and admitting candidates for the ministry, that the dissent of a congregation was no sufficient reason for setting aside a presentee, and that those courts had jurisdiction to compel presbyteries to induct presentees to the cure of souls, notwithstanding of such dissent. It was not the mere terror of damages that created the difficulty as to the conduct of the church. But here was a judgment of the civil court to which they could not yield obedience,—which they were not called on either by scripture or constitutional principles to obey. It

The Church could obey the first Auchterarder decision in the sense in which she understood it; but cannot obey the second.

CHAP. XIV. was vain to say, that if presbyteries took presentees on trials, the civil court would be satisfied. The civil court, in the late decision, said—the dissent of the congregation must be entirely excluded. The church could not go on upon these terms; they could not even appear to sanction such a decision by proceeding just as usual to act upon presentations, without guarding themselves in some way or other against misconstruction."

Necessity for taking some step to meet this new emergency.

These considerations were too clear and conclusive, not to strike and satisfy the minds of all who were really concerned for the spiritual independence of the church. It was indeed as competent and lawful in this case, as in that of the Lethendy or Strathbogie interdict, to disregard the civil decree, and to take the consequences. To suffer was not necessarily to sin. On the footing not merely of scripture, but of constitutional law, the church held herself entitled to treat this decision as itself illegal,—as a usurpation upon her ratified rights and liberties, of which she was entitled to complain to the legislature, and to which it would be the solemn duty of the legislature, under the obligations of the revolution settlement and of the treaty of union, to put an end. But manifestly, unless the legislature did interfere, in some way or other, to redress this grievance, it would be practically impossible, as Dr. Candlish truly affirmed, for the church to go on. The presbyteries of the church might be contented to abide the issues of the formidable decision which the house of lords had thus pronounced; and they might also, by divine grace, be enabled to do so, without flinching from the full and faithful

The Church could not consent to go on under this civil coercion.

discharge of their duty to the church's Head and King. But such a state of things could not fail to be full of peril. The constancy, not of courage only, but even of conscience itself, might give way under the pressure of those harassing inflictions, which reckless patrons and sordid presentees could now bring to bear upon the courts of the church. At all events, it was neither right nor safe to leave men permanently exposed to the hazards of so severe a trial. The whole subject engaged the immediate and earnest attention of the church, and after calmly and prayerfully considering it, a resolution was taken to summon a meeting of all those ministers who had identified themselves with the great principles for which the church had been so long contending,—in order that they might look this crisis in the face, and consider, as in the sight of God, what ought to be done.

Resolution adopted to summon a meeting of non-intrusion and spiritual independence ministers.

This truly solemn meeting was convened by a circular signed by thirty-two of the most venerable ministers of the church. "You must be aware," said this memorable circular, "that the late decision of the house of lords, in the case of Auchterarder, has practically placed the church of Scotland in a state of subordination to the civil courts, such as no past generation of presbyterian ministers in this country would have submitted to, and such as all, until within these few years, would have regarded as something too violent and unnatural to be ever realized. In these circumstances it appears expedient that those ministers who hold the supreme jurisdiction of the church, in things spiritual, to be indispensable to the maintenance of a pure gospel in the land, should have

The circular calling this meeting.

CHAP. XIV. an opportunity of full and unreserved converse with each other,—in order that their common mind on this vitally momentous question, may be distinctly ascertained, and such an expression of it given forth, as by the blessing of God, may have the effect of removing that aggression of the civil power, which, if not removed, must speedily terminate in the degradation and overthrow of our national establishment." After noticing the remarkable fact already alluded to, that if the learned lords, who gave the judgment complained of, were "unanimous in the adverse sentence which was then pronounced, they seem to have been not less unanimous in the silence wherewith they pass over one and all of the statutes which recognize and secure the absolute and exclusive jurisdiction of the ecclesiastical courts in things spiritual,"—the circular proceeded to point out what might yet be done, with a view to avert the dangers now impending over their national church,—and to indicate, not obscurely, the only course that would remain in the event of that last effort, to procure an honourable settlement of the question, being found to fail. "Without entering into the legal merits or demerits of the judgment, its undoubted effect is to place us in a position where we may represent with all deference to the legislature, that the specific statute, rested on by the civil court, has now, for the first time, and in opposition to all former opinions, been so construed as to place it in direct conflict with the constitution, unalterably secured to the national church of this country. We can, therefore, present this alternative to the legislature and crave their own decision upon it,—whether

Remarks on the late decision.

Position in which this decision had placed the Church.

they will destroy the constitution of the church or remodel this particular statute,—and so long as we have the faith of treaties and of coronation oaths for our securities, we may hope that the legislature will yet respect the privileges assigned sacredly and inviolably to our church, and which, both at the revolution and at the union of the kingdoms, were declared to belong to her without any alteration for ever." "Should the state prefer the former branch of this alternative proposition," the circular went on to say, "there yet remains a higher appeal from the constitution, thus disregarded and violated, to the conscience of the church." Among the various advantages specified in the circular, as likely to result from this CONVOCATION, it was justly and appropriately stated to be the chiefest of them all, "that it will afford numerous opportunities for united prayer to Him who can alone turn the hearts of men whithersoever He will, and who has promised, that where two or three are met together in His name, there He will be in the midst of them."

Proposed appeal to the legislature.

If that fail,—they must appeal to the conscience of the Church.

The day fixed for the meeting of the convocation was Thursday, the 17th of November,—the day immediately succeeding that of the quarterly meeting of the commission of the general assembly. On the 16th the commission met, and after transacting some ordinary business, proceeded to consider the state of the church. On the motion of the Rev. Mr. Carment of Rosskeen, a committee was appointed to prepare and transmit a memorial to government in reference to the late decision of the courts of law, and to the claim of right adopted by the preceding general assembly. To

November meeting of the Commission.

CHAP. XIV. aggravate the grievances of the church, the lord ordinary had, a few days before the commission met, pronounced a judgment, at the instance of the deposed ministers of Strathbogie, sustaining the jurisdiction of the courts of law to set aside sentences of deposition pronounced by the supreme court of the church.

Dr Candlish's speech on the state of the Church.

"Surely," said Dr. Candlish, after commenting on this decision, and on the peculiarly offensive note which the lord ordinary had thought fit to append to it,—"surely we have got enough now to entitle us to go to her majesty's government, and to represent to them this new encroachment on the province of the church, and to demand their attention to our claim of right. * * * Such is our value for the establishment,—such is our respect for the institutions of the country,—and our sense of those blessings for which our fathers bled and died, that I think we were warranted in entering the civil courts and defending them there. But there is a limit to this harassing warfare; there is a limit to this church going on with it. There is a point, beyond which the question more concerns the country than the church." That point had been fully reached, and it must now lie with the government and the parliament, conclusively and finally, to decide the cause. The motion of Mr. Carment was adopted unanimously.

The Commission adopts motion of Rev. Mr. Carment, to transmit a memorial to government

On the following day, and preparatory to the convocation, there was a special meeting for public worship in St. George's church. The centre of the church was set apart for ministers, and the space, large as it was, was completely filled. The side aisles and galleries were appropriated to the public, and

The 17th November the meeting of the convocation.

The devotional services in St. George's Church.

proved altogether insufficient to accommodate the crowds, whom this solemn occasion had drawn together. The devotional services were conducted by the Rev. Dr. M'Donald of Ferrintosh, that eminent servant of God, noticed in an earlier part of this work, of whom it is enough to say that he was the Whitefield of the highlands and islands of Scotland. The proudest and most powerful chieftains of the celtic race never possessed such a mastery over the clans, which the fiery cross, or the wild pibroch, summoned into the field in the fierce days of feudal strife, as belonged, in these more peaceful modern times, to this humble minister of Christ. From Tarbetness to the outer Hebrides,—from the Spey to the Pentland Frith,—the fact needed but to be known that John M'Donald had come and was about to preach the Word, in order that the country for twenty miles around should gather at his call. Ten thousand people have often been swayed as one man, stirred into enthusiasm or melted into sadness, by this mighty and faithful preacher's voice. While these sheets have been passing through the press, his honoured dust has been consigned to the tomb; but his life and labours will be remembered among his native hills as long as highlanders continue to love the gospel, and to venerate the memory of the just.* The convocation sermon was preached by Dr. Chalmers. Never, perhaps, was the truth of that inspired saying of Solomon—"a word spoken in due season how good is it,"† more vividly realized than when the preacher gave

Dr. M'Donald of Ferrintosh: his power as a preacher, and his labours in the Highlands.

* The Rev. Dr. M'Donald died on the 16th of April, 1849.

† Prov. xv. 23.

CHAP. XIV.

The text of the convocation sermon preached by Dr. Chalmers.

out as his text,—"Unto the upright there ariseth light in the darkness."* Every man looked at his neighbour, and exchanged the silent but strong expression of conscious comfort and encouragement, which the very utterance of these words, at such a moment, called forth. "The great lesson of this text," said the preacher, as he proceeded to expound it, "is the connection which obtains between integrity of purpose and clearness of perception,—insomuch that a duteous conformity to what is right, is generally followed by a luminous discernment of what is true. It tells us that if we have but grace to do as we ought, we shall be made to see as we ought,—or, in other words, that if right morally, we are in the highway for becoming right intellectually."† Having illustrated, with characteristic felicity, the doctrine of the text, he spoke of two kinds of darkness which the light promised in the text might be needed in their case to dispel. First, there was a darkness connected with the mere complexity of the case. "This kind of darkness," he said, after fully explaining it, "may be overcome by dint of a more steadfast and persevering attention, or more vigorous appliance than before of the merely intellectual powers." "But," he continued, "there is another sort of darkness, proceeding from a wholly distinct source, and only to be overcome in another way,—we mean the darkness which gathers over a question in which our own personal interest is suspended, and where the judgment of man is apt to

The lesson of the text.

The two kinds of darkness.

* Psalm cxii. 4.

† Sermon preached before the Convocation of Ministers, &c., by Thomas Chalmers, D.D., LL.D., &c. Glasgow: W. Collins, 1842.

be blinded and bewildered by that most deceitful of all sophistry, the sophistry of his own affections,—when in balancing between two terms of an alternative, self intervenes with its mighty preponderating bias, and turns the scale against the whole weight of reason and conscience on the other side; or to express it otherwise, when the objects of deliberation are seen through a medium of selfishness, and though not complicated, are at least mightily bedimmed and distorted thereby. It is the darkness thus originated which our text has properly to do with,—because a darkness which needs, for the dispersion of it, not so much an intellectual as a moral counteractive. It is obviously that sort of darkness which integrity of heart and purpose is fitted to dispel,—a darkness, you will observe, which settles and sits fast on the minds of the sordid and the fearful; but which vanishes and gives way before the untroubled eye of him whose serene and single-minded purpose it is, to be as he ought and to do as he ought."

That kind of darkness to which the text specially refers.

It was under the hallowing influence of these most solemn and seasonable services, the convocation sat down. The place selected for its sittings was Roxburgh church, a small place of worship in an obscure street, of a rather obscure quarter of the city, and which was chosen solely because its limited size fitted it better than a larger church, for such a free and conversational conference as it was the great object of those who assembled, to hold with one another. Many predictions during the few weeks which immediately preceded it, had been hazarded concerning this memorable meeting. That few would attend

The convocation meets in Roxburgh Church.

CHAP. XIV.

was the confident assertion of some; and that its counsels would issue in discord and confusion, was the not less confident anticipation of others. The wish was father to the thought. "If," said the Times, combining in one of several articles on the subject both of the evil auguries now named, "if this meeting is numerously attended, which certainly admits of a doubt, unless the whole clergy of Scotland act as indiscreetly as pious old Mause when she retired in the spirit of an early martyr, from the barony of Tillietudlem, we may safely leave the dissensions which already manifest themselves amongst the non-intrusionist party, to humble the pride and overthrow the power of their leaders." The spirit of which old Mause was the exponent, however it might serve to point the sneer of the Times, was found to be no jesting matter in the days of Sir Walter's tale. It proved more than a match for the sword of Claverhouse, and the infatuation of despising and trampling on it, cost the Stewarts their throne. There was a moral in the story of Tillietudlem which both the Times and the party for whom he wrote had failed to learn, and hence the egregious blunders into which they fell. Conscience seemed to be a force as little known to the dynamics of politicians in the nineteenth as in the seventeenth century, and accordingly it was left altogether out of their estimate from beginning to end of the ten years' conflict. The convocation might have been expected to give them some little light upon the subject. Instead of vindicating their sinister vaticinations by failure, it rebuked them by the most triumphant success. Although it met in the dreary and

Remarks of the Times on the convocation.

Old Mause and Tillietudlem.

wintry month of November, it was attended by 465 ministers, and these gathered out of every county from Wigton to Caithness; and never, perhaps, did a meeting so large, and occupied with matters so exciting and difficult, present a more remarkable exhibition of unanimity and mutual love. As the proceedings of the convocation were strictly private and confidential, no authentic record was preserved or taken of the numerous, interesting, and admirable addresses which, in the course of its sittings, were delivered; nor of the many touching incidents, full of both pathos and piety, by which its proceedings were distinguished. In order to give to the deliberations of the assembled brethren a practical character and a definite aim, two great questions were singled out for discussion,—1st. what is our grievance? 2d. what is the remedy for that grievance, which it is necessary to obtain? Nothing could have been more just or judicious than the method that was followed in bringing out the mind, and, finally, taking the sense of the meeting on these cardinal questions. First the question was introduced by some ministers of years and experience, such as Dr. Chalmers or Dr. Patrick M'Farlan; an opportunity was then given to any who chose to offer, spontaneously, their sentiments regarding it to the meeting; and, finally, the synods of the church were called in succession, and those members of each synod that were present in the convocation were invited to state their views. By this means every one, however little known on the arena of public controversy, who had "any word of exhortation" for his brethren, or anything, however short and simple,

The convocation attended by 465 ministers.

The questions of the convocation.

Mode of proceeding in the convocation.

CHAP. XIV. for the exoneration of his own conscience to utter, was brought forward and encouraged to contribute his share to those counsels, by which the convocation was to be guided to its decisions. It was, moreover, a standing rule, that nothing was to be carried by mere majorities, and that no man was to be held as committed to anything but that which was expressed in his own statement, or confirmed by his own vote. These most wise arrangements inspired universal confidence, and every man spoke, in consequence, with the most unreserved freedom. Differences of opinion, in matters of detail, of course, there were; and through the undue heat and pertinacity of one or two individuals, it seemed sometimes, for a little moment, as if "the bond of perfectness" was about to be broken. Patience and prayer, however, never failed to dispel these transient clouds, to allay the little gusts that came along with them, and to restore sunshine and serenity to the moral atmosphere of that most memorable meeting. Few that were present can ever forget the overwhelming gush of deep and tender emotion that filled every bosom as the heavenly-minded M'Cheyne, when called on to pray after one of these anxious moments, uttered, in his melting tones, the slightly modified words of the psalmist, "The enemy hath thrust sore at us, that we might fall; but the Lord helped us. The Lord is our strength and song, and is become our salvation."* In a truly spiritual sense the members of that convocation were there "baptized in the cloud and in the

Nothing carried in the convocation by mere majorities.

Rev. Robert M'Cheyne's prayer.

* Psalm cxviii. 13, 14.

sea;" prepared to march forth as a band of brothers into the wilderness of their coming trials, esteeming even the reproach of Christ greater riches than the treasures of Egypt. CHAP. XIV.

The convocation commenced its sittings, as has been already mentioned, on Thursday, the 17th Nov., and it concluded them on Thursday, the 24th of the same month. Its deliberations had resulted in the adoption of two sets of resolutions,—the one containing the answer to the question—what is the grievance?—the other, the answer to the question—what is the remedy? The former series, concisely but clearly pointed out the grand elements of the church's grievance. 1. The decisions of the civil courts, in the two Auchterarder cases, had converted the spiritual act of receiving and admitting a presentee to the ministry, and to the cure of souls, into a "civil obligation," liable to be enforced by the pains and penalties of civil law; and had ruled that the church was guilty of a civil offence, to be dealt with accordingly, when, in terms of her own law, and in accordance with her own immemorial and constitutional principles, she rejected a presentee because of the dissent of the congregation. 2. That by other decisions interfering with, and setting aside the spiritual censures of the church, the civil courts had usurped "the power of the keys." 3. That these encroachments on the proper jurisdiction of the church were based on a novel interpretation of the act of Queen Anne,—an act which was itself a wrong from the beginning. 4. That the principle involved in these decisions of the courts of law was that of a civil supremacy in matters spiritual,—a principle

Resolutions of the convocation.

First series.

Chap. XIV. which could not be submitted to; and, 5. That the resistance which had been made by the church to these encroachments of the temporal power, was founded in a reverence for great constitutional as well as scriptural principles,—and was still persisted in for this, among other reasons, that if these encroachments were sanctioned, it must be at the expense of overthrowing the ratified constitution of the church of Scotland. This first series of resolutions was passed on Saturday, the 19th of November, and was concurred in by 423 ministers. The second series also contained

Second series. five resolutions. 1. This important doctrine was laid down,—"That while the church most solemnly protests against the invasion of her jurisdiction by the civil courts, as contrary to the word of God, the confession of faith, and the constitution of this kingdom; and while in particular she is entitled, in the judgment of the brethren now assembled to declare, as the general assembly in the claim of rights has declared, that the assumption by the civil courts of authority in matters spiritual, and especially in the ordination, admission, or deposition of ministers, and the other proceedings there set forth, is in violation of the law establishing the church, which was made unalterable by the act of security and the treaty of union; and that whatever is done in the exercise of that assumed authority, ought therefore to be held,—as in right, or *de jure*, it is,—null and void, and of no effect: still, whatever the nation in these circumstances might do, it is not the duty of the church, as a kingdom not of this world, which has not, and cannot have any power of the sword, or any secular dominion whatever, to plead her title thus

acquired and secured to the temporal benefits of her establishment, in opposition or resistance to the supreme power of the state, except in the way of remonstrance, protest, and serious warning." 2. That while it was the duty of the church to state the grievance, the refusal of the state to redress it, must be held to imply the sanctioning by the state of those powers which the courts of law had assumed. 3. This resolution laid down in accordance with the principles of the confession of faith, what is, and what is not competent, to the state and to the church, respectively; showing that each is, and must be, for the very ends of its institution—independent in its own province. 4. That it is the duty of the faithful ministers of the church not to retain their endowments, or to persist in their present conflict with the civil power, after the state, by refusing to redress the existing grievances, shall have virtually made it a condition of enjoying the temporal benefits of the establishment, that they shall be subject to civil control in matters spiritual, and bound against their consciences to intrude ministers upon reclaiming congregations; and, 5. "That it is the duty of the ministers now assembled, and of all who adhere to their views, to make a solemn representation to her majesty's government, and to both houses of parliament, setting forth the imminent and extreme peril of the establishment, the inestimable value of the benefits which it bestows on the country, and the pain and reluctance with which they are forced to contemplate the possibility of the church's separation, for conscience sake, from the state,—respectfully calling upon the rulers of this nation to maintain the consti-

What those who subscribe these resolutions consider to be their duty.

CHAP. XIV. tution of the kingdom inviolate, and to uphold a pure establishment of religion in the land,—and, finally, intimating that as the endowments of the church are undoubtedly at the disposal of the supreme power of the state, with whom it rests either to continue to the church her possession of them, free from any limitation of her spiritual jurisdiction and freedom, or to withdraw them altogether; so it must be the duty of the church, and consequently in dependence on the grace of God, it is the determination of the brethren now assembled,—if no measure such as they have declared to be indispensable be granted,—to tender the resignation of those civil advantages which they can no longer hold in consistency with the free and full exercise of their spiritual functions, and to cast themselves on such provision as God, in His providence, may afford,—maintaining still uncompromised the principle of a right scriptural connection between the church and the state, and solemnly entering their protest against the judgments of which they complain, as, in their decided opinion, altogether contrary to what has ever hitherto been understood to be the law and constitution of this country."

It is their determination, if the grievance complained of be not redressed, to abandon the Establishment.

Second series of resolutions subscribed by 354 ministers.

This second and most important series of resolutions was passed by the convocation on Tuesday, the 22d November, and concurred in by 354 ministers. Of the 465 ministers who took their seats in the convocation, the whole number, from obvious and unavoidable causes, could not be present at any one time, while many were obliged to return home, from the pressure of other engagements, before the business of the convocation could be brought to a close. Partly to these

causes, and partly no doubt also to the wish which some had, to suspend for a little their final decision, the difference is to be ascribed between the number of names on the roll of the convocation, and the number attached respectively to the two series of resolutions. Independently of those who gave in their adherence to the resolutions after the convocation rose, enough was done on the spot to sound a loud and most intelligible note of warning in the ears of the government. To any one not blinded by prejudice or passion, it ought to have been abundantly manifest that the church was now setting her house in order, and preparing for the worst,—and that, if the legislature should fail to interpose, and government should continue to trifle a little longer with the subject, the dismemberment of the national church was the very least result that could ensue. There were other causes, it is true, besides passion and prejudice, at work with men in power. Not a few of them, Gallio-like, cared for none of these things,—hardly deigning to inquire who were the parties, and never troubling themselves to ascertain what were the interests, concerned. It certainly was not the fault of the convocation, if the rulers of the country did not awake to a sense of the serious nature and formidable magnitude of the crisis which was now hurrying on. In every competent and becoming way, the means were taken to make known what those who attended it had done, and what they had, through grace, determined to do. To convey to the community at large, early and authentic information of what had taken place, the convocation closed its sittings in public in a great

The Church setting her house in order.

Every means was taken to make government aware of the impending disruption.

CHAP. XIV.

Convocation rises on 24th November. Holds a public meeting in Lady Glenorchy's Church.

meeting, held on the evening of Thursday, the 24th of November, in Lady Glenorchy's church. Three of the members of the convocation, appointed for that end by their brethren, viz.—the Rev. Drs. Clason and Candlish, of Edinburgh, and the Rev. Dr. Buchanan, of Glasgow, addressed the meeting,—and expounded the whole matter to the crowded and deeply solemnized audience. Further, and agreeably to a special resolution of the convocation, "an address to the people of Scotland" was drawn up by the Rev. Dr. James Buchanan, of the High church,* and circulated in thousands over the whole kingdom. And finally, a memorial, also prepared under the express instructions of the convocation, was addressed to Sir Robert Peel, and to the other members of her majesty's government. This memorial embodied the two series of resolutions, and explained calmly and clearly what those circumstances were which had led to the calling of the convocation, and what were the objects which it was designed to promote. "They feel," said the memorialists, in this weighty and impressive document, "that the time is come when the final determination of this question can be postponed no longer: and as they cannot disguise from themselves, so neither would they deem it right to conceal from the government and the country, the inevitable result of a continued refusal, on the part of the legislature, of that indispensable measure of relief which they think they have a good right to ask, and good reason to expect. Their situation, in truth, is most

Memorial of the convocationists to government.

* Now professor of theology in the Free Church College, Edinburgh.

painful and embarrassing. They cannot conduct the affairs of the church in the manner which the civil courts have prescribed; they could not themselves remain in the communion of a church which should agree to regulate her procedure according to the principles now held to be involved in the civil law: nor can they allow others, in the same communion, to do so. But it is well known that a large minority of the church's office-bearers are prepared, in obedience to the civil courts, to cast off her authority; and were the church, while continuing to claim the advantages secured to her by law, to persevere, as she must in principle do, in maintaining her discipline over all who, under whatever civil sanction or compulsion, transgress her orders and violate her laws, founded, as she believes, on the word of God, not only would she be exposed to grievous obloquy and reproach, but a spectacle both painful and scandalous must, in all probability, be exhibited, of two sections of the same church striving with one another in the use of civil pains on the one hand, and spiritual censures on the other. * * * The memorialists are not ashamed to confess, that they shrink from such an exhibition as would thus be presented before the people of Scotland,—and this is one practical consideration, among others, which has weighed much in determining them to bring this whole question to a final issue,—and to retire from their position, as connected with the establishment, rather than prolong an unseemly contest with the civil courts which deny, and with their own brethren who set at nought, their jurisdiction: a contest which could not fail to be attended with

CHAP. XIV.

They distinctly proclaim their intentions to her Majesty's government.

Considerations which have led them to the resolution they have adopted.

CHAP. XIV. most disastrous consequences, affecting both the majesty of law and the highest interests of religion." After uttering these noble sentiments—after stating that, as being entrusted with the administration of a great national institution, they had been constrained by a sense of duty to contend against the civil courts as hitherto they had done, for what they conceived to be its ratified rights and liberties,—after intimating that they did not feel themselves called upon to do more in this way than they had already done, but must leave upon the nation itself the responsibility of allowing this national institution of the established church of Scotland to be subverted and overthrown, —they concluded thus:—"The memorialists beg leave very respectfully to remind her majesty's government, of the obligation under which states and their rulers lie to Him by whom kings reign and princes decree justice: whose cause they are bound to espouse, whose church it is alike their interest and their duty to support and secure in all the freedom with which He has endowed it. The memorialists deeply feel the solemnity of the question now submitted to the decision of parliament and of the nation; it being in the opinion of the memorialists nothing less than the question whether the church, unalterably established in Scotland, is to be preserved inviolate, according to the faith of treaties,—or whether this great kingdom is to commit, as the memorialists would regard it, the heinous national offence of not only breaking the national faith, but disowning the authority of Christ in His own House, and refusing to recognize His church as a free spiritual society,

The obligation and responsibility of the State in this matter.

The memorialists, having exonerated their own consciences, await the issue.

instituted by Him, and governed by His laws alone. The memorialists now leave the whole subject in the hands of her majesty's government,—uniting in most earnest prayers to Almighty God, that He may direct the counsels of her majesty to that conclusion which shall most conduce to the good of the country, and to His own glory."

The last act of this eventful drama was now at hand. When the curtain closed on the convocation, it had become evident to thinking men that the next time it was raised it would reveal a still more striking scene. Already behind the screen of that temporary obscurity into which the actors retired, when they disappeared from Roxburgh church, and withdrew into the privacy of their own parishes and homes, there might be heard the busy preparation and the hurrying tread of those whose next movement was destined to consummate the Disruption of the Church of Scotland.

CHAP. XV.

THE DISRUPTION.

The complicated story of the Conflict, now ready to be wound up.

IN a perfect drama, the skill and genius of the author appear in the bringing on of the catastrophe at that precise point where all the converging lines of the complicated story meet, and where its whole interest and instruction can be concentrated in one decisive event or deed. The drama of the Ten Years' Conflict was not contrived by any human intellect,—but it had, notwithstanding, a plan, and a progress, and an issue,—the completeness, the unity, and the grandeur of which, betray, not indistinctly, to the devout and thoughtful mind, the hand and power of Him who is ever wonderful in counsel and excellent in working.

Review of the rise, character, and course of the Conflict.

The Conflict took its rise, as the reader will remember, from those two reforming acts of the general assembly of 1834, through the one of which, the church vindicated the rights of her congregations, by asserting the principle of non-intrusion,—and through the other of which, she vindicated the rights of her office-bearers and of her courts, by asserting her competency and duty to invest her ministers with the full powers of their spiritual office, and to determine to whom it belonged to administer the government of Christ's house. Both of these acts came to be challenged by the civil tribunals. They were acts of such a kind as that it was not possible to challenge them, without raising the whole question of the mutual relations of church and state. In the case of the act on calls, it

is true, this did not all at once appear. The ground taken up against it, however, in the courts of law, involved, from the very first, an attack on the intrinsic power of the church in the examination, ordination, and admission of ministers: an attack which was afterwards not only prosecuted, but sustained and enforced in a sense, and to an extent, which virtually converted the ministry and the pastoral office into a mere civil institution,—the qualifications for which, and the right to exercise the functions of which, were all of them matters to be ultimately regulated and determined by the court of session. In the case of the chapel act, there never either was or could be a doubt that to overthrow it, by the mere force of a decision of the courts of law, would be to place the entire government of the church under civil regulation, and to deny to the church the power of carrying into effect the institutions of Christ.

The second Auchterarder decision had settled the one great branch of the Conflict.

The second Auchterarder decision, pronounced in the month of August, 1842, had carried out into full development the principles on which the competency of the church to pass the act on calls had been brought into dispute,—and it then only remained, in order to ripen the whole conflict for the *denouement* to which it was hastening on, that a decision, as full and explicit, should be given on the chapel act too. Five years had elapsed after the passing of that act by the assembly, before its legality was formally contested. The prodigious benefits which, within that period, it had conferred on the church and country, have been sufficiently illustrated in an earlier part of this work. Among these benefits, was the return in May, 1839,

The Stewarton decision settled the other.

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History of the Stewarton case.

Mr. Cunningham of Lainshaw and other heritors of Stewarton, assail the chapel act in January 1840.

to the bosom of the established church of a large and respectable body of the seceders of the preceding century,—called the associate synod. In the month of August following, the Rev. James Clelland, a minister of that synod, at Stewarton, in the presbytery of Irvine, was received into that presbytery, and his name added to the roll of its members, agreeably to the chapel act of 1834, and to the special instructions of the assembly of 1839. Steps were taken shortly thereafter, as directed by the chapel act, to attach a parochial district to Mr. Clelland's ministerial charge, and to place it, *quoad sacra*, under his pastoral care. While proceeding in this business, an agent appeared in the presbytery, at a meeting held on the 7th January, 1840, on the part of Mr. Cunningham, of Lainshaw, and certain other heritors of the parish of Stewarton, and intimated their intention to oppose the erection of the proposed *quoad sacra* parish. The case being novel, and the consequences involved in it important, the presbytery, by a majority, resolved to refer it to the superior church courts for advice. Before that advice had been obtained, Mr. Cunningham and the heritors concurring with him in this movement, presented to the court of session a note of suspension and interdict,—to prohibit Mr. Clelland "from sitting, acting, and voting as a member of the presbytery of Irvine, in all causes, matters, and proceedings, in any way originating in, or connected with the parish of Stewarton," &c.: and also to prohibit the presbytery of Irvine, "from proceeding in any way or manner, by perambulation of the parish of Stewarton or otherwise, in dividing the said parish, and designing or

erecting a new parish therein, and placing the same under the pastoral superintendence of Mr. Clelland, or of any other person, and from constituting a new and separate kirk session, having jurisdiction and discipline over the proposed new parish, and from connecting the said new parish with the church and congregation of Mr. Clelland, and generally, from innovating upon the present parochial state of the parish of Stewarton as regards pastoral superintendence, its kirk session, jurisdiction, and discipline, belonging thereto."* The note further prayed the court to prohibit the members, or pretended members of the synod of Glasgow and Ayr, and "all other persons" from doing any of the things previously specified.

Interdict granted in absence.

This interdict was granted *ad interim*, by Lord Gillies,—and on the 15th June following, it was confirmed by Lord Ivory, "in respect that the note had been duly intimated and no answers lodged."

Meanwhile the synod of Glasgow and Ayr, on the reference for advice being brought up at their meeting on the 14th April, instructed the presbytery of Irvine to proceed to allocate a territorial district to the new church at Stewarton, agreeably to the acts of assembly on that subject. At its meeting on the 5th May, the presbytery resolved, by a majority, to do so accordingly; but their decision was, by the dissent and complaint of one of their own members, carried by appeal to the general assembly. The assembly remitted the case to the commission, which, at its

Case carried up from the Presbytery to the Assembly.

* Report of the Stewarton Case, &c., by J. M. Bell, John Murray, &c. Edinburgh: Thomas Clark, law bookseller, 1843.

CHAP. XV. meeting on the 14th of August, dismissed the complaint, approved of the conduct of the presbytery in resolving to proceed, and directed them to proceed accordingly; "instructing them, at the same time, to insert express words in the deliverance by which they allocate a territorial district to the church in question, limiting the effect of the same to matters of spiritual jurisdiction and discipline, which alone are implied in or would be affected by such allocation under the existing laws of the church; and also to insert the reservation, likewise implied, to heritors and their tenants in the part of the parish which may be set apart for the new church, having legal right to the sittings in the original church to continue in their option, members of the congregation thereof." When the presbytery met on the 1st of September, the interdict obtained by Mr. Cunningham and others was served upon them by a messenger-at-arms. Anxious to proceed with caution, and in a peaceful and conciliating spirit, the presbytery resolved to delay taking any steps till November. They, at the same time, appointed a committee to confer with the heritors—in the hope of inducing them to withdraw their interdict—and thus to avert the mischief of a new collision with the courts of law, and that too a collision in a matter in which it was quite manifest the church could never consent to give way. This offered conference the heritors refused to hold. On the 24th November, the presbytery having now no other course left, resolved to carry into effect the instructions of the commission of assembly, and to meet for this purpose on the 10th of December. When they did

Sentence of the Commission to which the case had been referred.

Presbytery again interdicted.

meet, the interdict was served on them anew. The presbytery, however, unmoved by this interference, resolved, "that in obedience to the superior judicatories of the church, to whom the presbytery consider themselves bound to yield obedience in all spiritual matters, and also with the view of promoting, by increasing the amount of pastoral superintendence, the spiritual interests and eternal welfare of the large population of Stewarton,* to take care of the souls, and to exercise spiritual jurisdiction and discipline over the persons inhabiting the district comprehended within the following boundaries," &c. The presbytery further stated in their minute that they could not understand the interdict, as intended to hinder them from performing purely spiritual acts, or to go any further than to protect the civil rights of the parties concerned, and that they accordingly "declared and provided," that nothing now done by them shall in any way or manner affect the civil rights of the parties at whose instance the interdict was obtained. The heritors subsequently complained to the court of session of the breach of interdict thus committed by the presbytery; but before this complaint was lodged, the presbytery had agreed to resist, in the courts of law, the right of interference claimed in this case by the heritors,—and the court accordingly determined to reserve consideration of the breach of interdict till the main question should be disposed of.

Presbytery resolve to proceed in face of the interdict.

The interdicters complain to the Court of Session.

The whole of the judges having been consulted on this important case,—it was decided against the church

* The parish of Stewarton contained between four and five thousand souls.

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The divided state of the court.

on the 20th of January, 1843. As in the Auchterarder case, the court was divided. On the side of the pursuers were the Lord President Boyle, the Lord Justice Clerk Hope, the Lords Medwyn, Meadowbank, Cunninghame, Murray, Wood, and Mackenzie. On the side of the defenders—the Lords Moncrieff, Fullerton, Cockburn, Ivory, and Jeffrey. As in the Auchterarder case, the decision turned not on the interpretation of statutes, but rather on a certain theory of the relative position and powers of church and state. "I cannot admit," said the Lord Justice Clerk, "that an establishment instituted by statute, can claim or legally possess any authority from a divine source, which the state, constituting the establishment, may not have thought fit to acknowledge as belonging to it; and, of course, I cannot admit that an establishment can ever possess an independent jurisdiction, which can give rise to a conflict as between two separate and independent jurisdictions. The establishment being instituted by the state, the competency of *all* its acts must be subject to the determination of the supreme court of law. If it were admitted to possess any power as an establishment not sanctioned by the provisions of the state, and so to possess from a separate source jurisdiction, producing a proper conflict of authority, then it would follow that the church must be entitled to determine for itself the extent of that authority, and hence no one act which the church chose to ascribe to that authority could be inquired into in a court of law."* Against this sweeping con-

Opinion of the Lord Justice Clerk.

* Report, &c., p 53.

clusion, founded on a naked assumption, Lord Moncrieff produced the simple but significant fact,—a fact urged so irresistibly in the Auchterarder case by Lord Jeffrey, and never answered either then or since,—that the constitution of the country had not given any such supereminent jurisdiction to the court of session. "The state," said Lord Moncrieff, when giving his judicial opinion in the Stewarton case, "that is, the sovereign power of the nation, has made abundant provision for the prevention of wrongs, as far as the imperfection of the human faculties, in their present state, renders this possible. To the court of session it has committed the prevention of all wrongs in civil affairs, and the control of all inferior civil courts, subject to the review of the house of lords. To the court of exchequer it has committed similar power in all matters of revenue. To the court of justiciary it has committed the cognizance of all crimes, and the superintendence of all inferior criminal judicatories, subject to no review by any other court. And to the ecclesiastical courts of the kirk session, presbytery, synod, and general assembly, in their order, it has committed the sole government of the church, and the exclusive jurisdiction in all matters and causes ecclesiastical,—the redress of all wrongs in such affairs resting finally in the general assembly. That error, or what some men may think to be error, may be committed in any one of these departments, is unfortunately too true. The justiciary may err,—the exchequer may err,—the court of session may err; and with all deference, the house of lords is not free from liability to error; and so also the general assem-

Opinion of Lord Moncrieff.

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bly, albeit under many more checks and balancing provisions than any one of the other courts, may fall into error, or may seem to the unlearned, in their laws and constitution, to have formed incorrect judgment. But these things do not affect the order and symmetry of judicial government. Whatever were the arrangement there must be an end, in each department, in some authority; still consisting in the judgment of mortal men, liable to error and imperfect judgment. It is in the nature of such institutions that there may be error and wrong in fact, though the law holds that there can be none. But when the system is so laid down, the exclusive care of each class of interests being clearly provided for by plain ordinance of the state, what can be so extravagant, and what can tend so directly to the disorganization of society, as that one of these courts should claim to itself all the powers of the state; actually identify itself with the state; and not content with the extensive powers which it has received in its own proper sphere, insist on investing itself with a jurisdiction which the state has exclusively committed to other courts,—repudiating and setting at nought the express enactments and declarations of the state itself, to which it owes its whole existence."

Lord Moncrieff denies that the civil court has jurisdiction in the case.

As for the particular alleged wrong which the court of session was now asked to remedy,—"Is it, indeed, so palpable, so certain, so grievous an evil and wrong," continued Lord Moncrieff, "that the courts of the established church, enabled by the voluntary efforts of the people of the land, aided by the government, and countenanced by the express

sanction of more than one act of parliament, have, with much care, thought, and anxiety, put forth their hand to extend the blessings of religious instruction to the people; that they have been successful in their efforts, and been rewarded by the thanks and rejoicings of multitudes in every part of the country; and that at last they are bringing back, into the fold of the church, a large body of men still firmly attached to her doctrines and once more devoted to her best interests,—is this the flagrant wrong which must find a remedy, by breaking down the bulwarks which the statutes of the realm have set up between the supreme court of the church and every other jurisdiction of the kingdom? I see it not; but I do see, that the same principle which can sanction such an interference in a matter so clearly and expressly ecclesiastical as that which I have described, may go on to break down all the independence, and with it, as I humbly think, all the usefulness of the church, even in the things which are confessedly the most sacred and spiritual in their nature,—ordination, deposition, the administration of the sacraments, the doctrines taught, the discipline exercised, the moral character of the ministers, the religious purity and order of the preaching of the gospel. If it be so, that in the face even of the very letter of the statutes, and against their whole spirit, as I read them, there is now found to be no exclusive jurisdiction even in the most vitally spiritual affairs,—I can only deliver my own conscience by expressing my most deliberate and most decided opinion against a principle which, according to my best judgment, tends to results which I tremble to contemplate,—in

Solemn remonstrance and warning of Lord Moncrieff against the proposed decision.

Chap. XV. the dissolution, or entire mutilation of that church which has been the instrument, under providence, of conferring such inestimable benefits upon the state, and on the people of these islands,—which has enabled the children of this our narrow and once dark spot of earth, by their intelligence and moral qualities, to raise their heads in honour among the nations, and which has ever been found the surest safeguard of the religious principle and the moral order of society in Scotland."*

In these weighty and solemn sentences, Lord Moncrieff did not more accurately define the true nature of the judgment the court was about to pronounce, than he correctly estimated and clearly foretold the consequences which it would be found to involve.

The question of appealing this judgment.

The judgment might, indeed, have been carried by appeal to the house of lords, but the church was not called upon, by any considerations either of principle or of expediency, to adopt this course. It was not without great scruple and difficulty the church had consented to appear, through the presbytery of Irvine, as a party in the case at all. There was not here, as in the Auchterarder case, any civil right or interest at stake. There was no right of presentation,—and no benefice in dispute; nothing of a nature to give to the civil tribunal even a *prima facie* ground of interference. When the presbytery went into court accordingly, they not only denied the jurisdiction of the court, but they declined it in terms, perhaps, too strong to be perfectly compatible with the deference due to a

* Report, &c., pp. 127—123.

judicial tribunal. "The respondents," such was the statement they had put upon the record of the revised case, "would greatly mislead your lordships, if they were to allow it to be inferred, from their appearing and pleading in the present process, that they would hold themselves warranted, by any decree of this court, so far to violate the duty, which, by the constitution of the country and their own vows, they are bound to perform, as to regulate their proceedings in the ordering of ecclesiastical matters and causes within their bounds, by the directions of a secular court, instead of those tribunals to which alone they are subordinate." * * * "Whatever judgment, therefore, your lordships may pronounce, the respondents freely, and at once avow, that in regard to the matters here in question, they will continue to give obedience to the injunctions of the ecclesiastical judicatories to which they are subordinate." It was solely because of the pecuniary loss and hazard to which the respondents, if the court should order them to disobey the general assembly, would come to be exposed, that they consented now to plead, in the hope of being able "to satisfy their lordships that the granting of the prohibition, sought by the suspenders, would involve a violation of the constitution of the country," &c. This language was subsequently modified as to the precise terms employed,—but repeated, and this too with the express concurrence of the court, as to its entire substance and spirit.

Declinature of the civil court's jurisdiction which the Church court had put in.

The only reasons why the Church consented to plead in the Stewarton case.

Under the protestation thus made, the church had followed the case up to the point already described, when, on the 20th January, 1843, the adverse decision

CHAP. XV. of the court of session, sanctioned by a majority of the judges, was pronounced. That the church had consented to plead at all, was a matter, as already explained, of mere expediency,—and the claims of that expediency, whatever they were, had now been fully satisfied. The very utmost that could be expected of the church in regard to any further judicial procedure in the case, was simply that she should take the necessary steps to keep the question of an appeal open till the ensuing general assembly. By so doing, both the church and the state would be left more free to adopt whatever course the emergency might seem to require. The state might still hesitate, but the church could hesitate no longer. Her path of duty had now become so plain, that none but the timid and the time-serving could fail to see it,—and to make up their minds to follow it. On the 4th of this same eventful month of January, 1843, a long and elaborate reply, on the part of government, had been transmitted by Sir James Graham to those addresses of the general assembly of 1842, which embodied the petition for the abolition of patronage, and the "claim, declaration, and protest, anent the encroachments of the court of session, on the spiritual jurisdiction of the church." In this document the church's claim of rights was pronounced to be "unreasonable:" and intimation was distinctly made, that the government "could not advise her majesty to acquiesce in these demands." This, therefore, was the voice of the crown, one of the great branches of the supreme power of the state, declaring against the church. The decision on the Stewarton case following immediately upon this ad-

It was enough if the Church should keep the question of an appeal open.

Sir James Graham's letter in reply to the claim of rights, &c.

verse manifesto of the government, served only the more clearly to show, that the lines of the church's conflict were now rapidly converging to the point at which it must come to a final close. The chapel act and the veto-law, as well as that entire system of independent jurisdiction in matters spiritual, in the exercise of which, these great reforming measures were adopted by the church, were now all and equally disowned, repudiated, and trampled on, by the courts of law. But one thing more remained to be done,—namely, to obtain a judgment from one of the two remaining branches of the legislature. Should the hostile voice of the crown, uttered through the executive government, be supported by a similar utterance from either of the two houses of parliament, the church must then hold that the question was decided, and that her work in this protracted and painful warfare was at length at an end. A special meeting of the commission of assembly had been summoned in consequence of these grave events. It was held on the 31st of January, and here the church made her last effort to avert the impending and approaching catastrophe of her separation from the state.

All the great questions involved in the conflict were now winding up.

Special meeting of Commission on 31st January, 1843.

So soon as the commission had been constituted, the moderator, Dr. Welsh, explained the solemn circumstances in which it had been called together. He stated, that shortly after the meeting of the commission in November, he had transmitted to Sir Robert Peel the memorial to her majesty's government then agreed upon, in which the attention of the government was again urgently called to the yet unanswered addresses of the preceding general assembly: that Sir Robert

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The papers to be laid before the Commission.

Peel, in reply, had informed him the memorial had been placed in the hands of Sir James Graham, by whom the official answer to it, on the part of government, would be communicated: that this official answer had since been received, and had been submitted by him, the moderator, to the special commission of assembly: that the special commission had prepared and transmitted, in the form of a minute, an answer to the communication of Sir James Graham, the receipt of which Sir James had acknowledged: and finally, that all these papers would now be laid on the table of the commission. Dr. Welsh also mentioned, that he had received a communication from the moderator of the presbytery of Edinburgh, with reference to the state of the church, and which, along with the other documents previously specified, he now placed in the hands of the court.

Dr. Cook's attempt to cast out the *quoad sacra* ministers from the Commission.

These preliminaries over, Dr. Cook immediately rose and addressed the commission. His object evidently was to found a certain party movement on the Stewarton decision. After noticing that decision, he announced that he and those who concurred with him held themselves bound to act upon it, and consequently to require that the names of all *quoad sacra* church ministers should be excluded from the roll of the commission. Even according to Dr. Cook's own principles, this was going too fast and too far. The proposition, as Mr. Dunlop immediately showed, involved a double blunder; first, the commission had always claimed and exercised the prerogative of putting upon its roll the names of persons who might have had no regular commission, or even no commis-

Mr. Dunlop's reply to Dr. Cook.

sion at all, to sit in the preceding general assembly. And hence, though it were true, which it certainly was not, that *quoad sacra* church ministers had been disqualified by the Stewarton decision, to sit in other church courts, it would not follow that they were disqualified to sit here; but second, Dr. Cook assumed that the Stewarton decision was not to be appealed, which manifestly he had no right to do. The party against whom it was given, the presbytery of Irvine, had not met since the decision was pronounced; and the time, therefore, for taking an appeal had not yet arrived. Dr. Brunton concurred substantially in the views of Mr. Dunlop. "There is no interdict," he said, "against those gentlemen taking their seats among us; there is no official intimation of the sentence to us; and if there had been, we ought not to act upon it until the period has elapsed within which an appeal may be taken." These considerations were both obvious and conclusive, but Dr. Cook persisted notwithstanding in pressing his motion, upon which the commission accordingly divided, and which was rejected by a majority of 115 to 23. When the result of the vote was announced, Dr. Cook read a protest, which had been prepared beforehand, and was now cut and dry for use. "We declare," said the protesters in this document, "that as the enrolment to which we object has been sanctioned by the commission, although no appeal against the judgment of the court of session has been entered, or no authoritative intimation has been given of any intention so to appeal, we, who subscribe this paper, hold the commission to be illegally constituted, and on this

Rev. Dr. Brunton concurs with Mr. Dunlop.

Dr. Cook's motion rejected by 115 to 23.

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Dr. Cook protests, and with his friends leaves the Commission.

ground, to have no title or authority to act for, or in name of the church of Scotland." After reading this protest, Dr. Cook and his supporters immediately left the commission. There was a meaning in this procedure, though the uninitiated did not at the time perceive it. Dr. Cook was looking before him; in little more than a month presbyteries would be called to elect their commissioners to the general assembly, where the church, as a church, must make her final stand. The protest was a hint, from the head quarters of moderatism, to the supporters of that party throughout the church; it was a preparation for that attempt which, as will shortly appear, was afterwards actually made, to break up prematurely the unity of the church; a step by virtue of which factious minorities, separating prematurely and gratuitously from their brethren, and assuming to themselves the functions of the courts which they had forsaken, elected commissioners of their own, with a view to get up, if possible, a fictitious majority in the supreme court of the church.

The meaning of all this: and its intended bearing on the ensuing Assembly.

The proper business of this special meeting of commission was introduced by the Rev. Dr. Candlish. He proposed that the minute by which the special commission had replied to the letter of Sir James Graham, should now be adopted as its own by this commission of the general assembly. "The minute," said Dr. Candlish, "of the special commission, very elaborately and fully enters into explanations upon those points which Sir James Graham in his letter seems to have misapprehended; and if, in the answer to the minute of the special commission, her majesty's

Speech of Rev. Dr. Candlish.

government had indicated any disposition to take up again the consideration of the claim of rights, with the explanations afforded them in the minute, setting them right on some points on which they had evidently misapprehended us, then it might have been the duty of this commission—first to address themselves to her majesty's government, soliciting reconsideration of the important document submitted by last general assembly, and soliciting special attention to the misapprehensions which the minute of the special commission has pointed out; but the reply of her majesty's government to the minute of the special commission takes this, in my view, altogether out of the question. That reply is just substantially a declinature, on the part of her majesty's government, to resume consideration of the claim of rights, even with reference to the explanations afforded, with respect to the misconceptions which appear, from the answer of the government to exist, as to the tenor of that document. It is, in plain terms, a declinature to enter further into the question with the church." Dr. Candlish concluded a long and lucid commentary on the two important documents under consideration,—the letter of Sir James Graham, and the minute in reply, of the special commission,—by moving the adoption of a series of resolutions. The *first* approved and adopted the minute of the special commission. The *second* noticed the serious misapprehensions of the true nature of the church's claim, which appeared in Sir James Graham's letter, and specified instances in which that misapprehension appeared. One of these instances was the groundless assumption that

It is now vain to renew communications with government.

Resolutions approving the answer already sent by the Special Commission to Sir James. Graham, and pointing out his misapprehension of the Church's views.

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Specimens of the misapprehensions in question.

the abolition of patronage was as much *a sine qua non* with the church, as the protection of her spiritual jurisdiction from the encroachments of the courts of law. Another was the offensive and far more injurious mistake, of representing the church's claim, in regard to jurisdiction, as a claim to be the *sole* judge of what is civil and what is spiritual. The *third* resolution noticed the remarkable fact, that the long array of statutes on which the church rested her claim of spiritual jurisdiction, seemed to have escaped the notice of her majesty's government. The *fourth* combatted the statement—that the non-repeal of the veto-law was the sole occasion of the difficulties of the church, and showed how willing the church had been from the first to alter or rescind that particular law, the instant a substitute could be found compatible with her non-intrusion principle. The *fifth* and last resolution, proclaimed the adherence of the commission to the claim of rights, and the certainty of a disruption of the church, if that claim should be denied,—and concluded thus: "But at the same time deeming that it is from the legislature,—the supreme power in the state,—that a decision, express or tacit, should be had by the church, the commission resolve to present petitions to both houses of parliament, laying before them the claim of rights adopted by the late general assembly, and praying that they may be pleased to adopt measures for granting the redress and protection there sought, and appoint a committee to prepare petitions to both houses of parliament."

The Commission adheres to the claim of rights, and resolves on a final appeal to parliament.

In supporting these resolutions, and this final appeal to parliament, Dr. Chalmers called on the friends of

this great cause to prepare for the worst. "I hope," he said, "that the practical policy of the Christian people of Scotland will be as vigorous and as strenuous now, as if the certainty were staring them in the face, that the Scottish establishment is to come down. I hope that the meeting of elders to-morrow will be as energetic and determined, in taking measures to provide the means of sustentation for the original presbyterian church of Scotland, as if the final sentence had gone forth against us. It is a most cruel and mischievous policy to defer the work of preparation, at so well nigh hopeless a time as the present; and it is absurd to say that our preparing for the worst will at all precipitate or hasten on the crisis. * * * If anything will avert the crisis, it will assuredly be the spectacle of a united Christian nation resolving, that when their ministers are driven, for conscience sake, out of the establishment, they shall be maintained and continued in their usefulness,—and their evangelical services be still preserved to the land,—determined never to let down their efforts till they have made Scotland an experimental garden, covered with churches and with schools." In answer to the reference for advice from the presbytery of Edinburgh, as to what ought to be done, meanwhile, in the administration of the church's affairs, by the inferior judicatories of the church, the commission recommended, that in all matters of ordinary routine they should proceed as usual, but that,—"in all disputed and litigated cases, the decisions in which would carry civil consequences,"—proceedings should be stayed, and counsel asked from the ensuing general assembly.

Speech of Dr. Chalmers: counsels all to prepare for the worst.

Instructions to the Church courts as to their duty meanwhile.

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It was on the evening of the 7th of March, that the petition, prepared by authority of the commission, was brought under the consideration of the house of commons. The petition itself had been presented by Mr. Fox Maule on the 10th of February,—and now, agreeably to a notice to this effect previously given, that gentleman proceeded to found upon it a motion of inquiry into those grievances of which the petitioners complained. Grave as the question was—and momentous as were the interests which it involved—it did not succeed in collecting so many as half the members of the lower house of parliament to hear it debated. A railway bill has often proved a more potent spell with which to conjure members from the clubs and dinner parties of the metropolis, than a case on which there hung the integrity and stability of a great national religious institution, and the worldly fortunes of hundreds of ministers of Christ. Mr. Maule ably and admirably performed the responsible duty which had been expressly laid upon him by appointment of the commission of assembly. In a speech which occupied two hours in the delivery, he laid the whole subject calmly and clearly before the house of commons. Approaching, in the course of his statement, the letter of Sir James Graham in reply to the church's claim—"The right honourable baronet," he said, "had stated in his letter that the question of jurisdiction was a question of law—'Whether a particular matter in dispute is so entirely spiritual as to fall exclusively within the jurisdiction of the church courts, or whether it involves so much of civil right as to bring it to a certain extent within the jurisdic-

Mr. Maule's motion in the House of Commons, on the 7th March.

Mr. Maule's speech.

tion of the civil courts, may often be a difficult question.' To that extent he (Mr. Maule) agreed with the right honourable baronet. But when he added, 'it is a question of law, and questions of law are decided in courts of law,—and questions of jurisdiction are also decided there,'—he (Mr. Maule) must take leave to differ on that point. In the first place, he maintained for the ecclesiastical court an equal right with the court of session, to decide for itself, and within itself, what were the limits between civil and ecclesiastical functions in cases brought before it. He acknowledged the same powers for the court of session, but he acknowledged no more. The highest authority he had been able to find on the subject of the jurisdiction of the court of session, went with him (Sir James Graham) to that extent, and no further. He would read a short passage from the 'Institutes' of Lord Stair: 'It is implied in the office of the lords of session, that they should interpret all acts of parliament, without which they must be incapable to determine all civil causes: which interpretations, however, have no other effect but in relation to the said causes, without prejudice to other judicatories to interpret the same as they are convinced.' It seemed to him (Mr. Maule) that the court of session had mistaken its functions, and had assumed to itself privileges belonging only to the state. Without meaning any disrespect to the court of session, he contended that it was the duty of the house to take cognizance of such a departure from the principles on which it was established. His proposition would be—that the house should resolve itself into a committee for the

Lord Stair's view of the jurisdiction of the court of session.

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Mr. Maule sought to have a committee of enquiry, and, if necessary, an address to the Crown.

consideration of this great national question. He was aware that it was difficult at times to reconcile conflicting jurisdictions; but for one he would never admit, that when two courts, equal by law, and by the constitution independent of each other, come into conflict upon matters, however trifling, or however important, one should assume to itself the right to say that the other was wrong: as he read the constitution, it became parliament to interfere. If the house consented to the committee, he should suggest that, if the matter could not otherwise be decided, the house should address the crown, in order that a declaratory act might be passed, to the effect of better defining the subject matter of the jurisdiction of the church, and confirming her jurisdiction within her own province."

Such was the moderate and reasonable demand which, on behalf of the church of Scotland, Mr. Maule addressed to the British house of commons: a branch of that imperial legislature which was bound, by solemn treaty, to uphold the church of Scotland in all those rights and liberties which were secured to it by the revolution settlement. Sir James Graham, who followed immediately in reply, commended and engaged to imitate the "calm and dispassionate manner" in which Mr. Maule had discussed "this most important question." His speech was simply a reiteration and defence of his letter. "The real question," he said, "was this,—when a secular dispute arose between jurisdictions which were co-ordinate and co-extensive, in terms approaching to the assertion of equality of supremacy, who should decide in the last resort?"

Sir James Graham's speech: a repetition of the sentiments of his letter.

A *secular* dispute, Sir James adroitly called it. But what if the dispute turn upon a matter *spiritual?* and Sir James could but know that this was what the church alleged the matter, actually in dispute between her and the courts of law, to be. He was most careful, however, to avoid facing that aspect of the question,—or applying to it the summary process of argument by which he condemned the claims of the church. The answer, however, which he gave to the church's petition had at least the merit of being unambiguous and explicit. "These pretensions of the church of Scotland," said he, speaking of what was embodied in the assembly's claim of rights, "as they now stood, of a co-ordinate jurisdiction, and the demand that the government should establish one law on the subject of parishes, and should allow the judge (church?), by the interpretation of the statute judging of his own case,—to set up another law co-equal with, and paramount to the law of the realm, did appear to him an expectation so unjust and unreasonable, that the sooner that house extinguished it the better,—because he was satisfied that any such expectation never could be realized in any country in which law, equity, or order, or common sense prevailed." This was in other words to say, that because the state had made a certain law regulating the title to the parish benefices,—the church had no longer a right to the independent interpretation of her own acts and standards, in what related to the parish cures of souls;—and therefore, that whatever the civil tribunals might determine as to the import and effect of the secular statute, must not only control the disposal of the

Repudiates the pretensions of the Church.

The import of the argument of Sir James.

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Mr. Rutherford's speech.

living, but must also control the church in her disposal of the holy ministry and of the pastoral office. Mr. Rutherford reminded the house, that those claims which Sir James Graham treated so lightly, were not to be held as groundless, merely because English gentlemen, accustomed to a totally different state of things in their own church, might think them extraordinary. It was not the wisdom either of the Home secretary or of the house, that was to decide the real question before them, for that question was a question, not of opinion, but of fact. Had the constitution of the country, or had it not, recognized as belonging to the church of Scotland the prerogatives she now claimed? Mr. Rutherford contended that it had, and by a very able argument, in the course of which he recapitulated and expounded the statutes on which the Scottish church establishment rested, he supported his affirmation, and challenged a discussion of the evidence he had thus adduced. In his learned and powerful speech, Mr. Rutherford commented with just severity on the style in which the church had been treated even on the bench of justice. "As to the question," he observed, "which party was the aggressor, he would not enter on it: but he would say,—and he said it though he knew he should meet the judges in a day or two,—that the language used on the bench had done much to exasperate the evil. The clergy had been spoken of by one of the judges as rebels and thimbleriggers, as playing the game of 'odds I win, evens you lose.' He would not name the judge, but he said with extreme pain, that language of that kind had much

His exposition of the statutes bearing on the Church's claim.

Comments on the offensive language used by a Scotch judge.

tended to embarrass the question." In the course of this memorable debate, Mr. Colquhoun, of Killermont, then member for Newcastle-under-line, opposed the motion of Mr. Maule, in a speech in which he repudiated the claims of the church, and eulogized Lord Aberdeen's bill, which he thought, with some trifling modification, might still meet the case. Like Sir George Sinclair, he had once been in the vanguard of the church reformers, but like him also, he had "suffered a sea change." His anti-patronage and spiritual independence principles had been overturned on the unsteady sea of politics. "If the individual who represented Kilmarnock in 1841," said Mr. Patrick Maxwell Stewart, member for Renfrewshire, in that tone of easy, good-humoured, and perfectly gentlemanlike sarcasm, which he knew so well how and when to employ, "if he was the same that represented Newcastle-under-line in 1843, there was certainly a very great change in his sentiments at these two periods,—so great that it was difficult to believe in his identity. A Mr. Colquhoun, it appeared, had presented an address to the electors of Kilmarnock in June, 1841, in which he thus spoke:—'I have felt it to be my duty to maintain the great institutions of my country, particularly those which secure our religious rights. One of these was the church of Scotland, which has recently been exposed to much danger. I, however, will never consent to barter her integrity. I will support her at this crisis of alarm, in all her just and reasonable claims. I will support her in the maintenance of her independent jurisdiction,—and those rights which are possessed by her people in the

Mr. Colquhoun of Killermont. His altered views.

Mr. Patrick Maxwell Stewart's exposure of Mr. Colquhoun.

Mr. Colquhoun's address to the electors of Kilmarnock.

CHAP. XV. appointment of her ministers. These rights were not claimed by her without authority, but they are found recorded in her constitution, which no law should be suffered to alter.' So much for Mr. Colquhoun at Kilmarnock. Mr. Colquhoun, in his speech at Port-Glasgow, on the 24th June, 1841, was reported to have said,—'It had been recently whispered at Kilmarnock, that he would not stand by the established church. He would say that he was deeply attached to both of the established churches. With regard to the church of Scotland, he would oppose anything that would interfere with her independence in spiritual matters. He had already written a pamphlet pointing out the injurious consequences of passing such a measure as that proposed by Lord Aberdeen, but of the Duke of Argyll's bill upon the subject he highly approved: and any measure of such a description as that, should have his warmest support.'" With all its faults, the house of commons knows how to respect consistency,—as the universal cheering which this exposure elicited, abundantly showed.

His speech to the electors at Port-Glasgow.

The adjourned debate and its chief speakers.

The debate having been adjourned at the close of Mr. Stewart's speech, was resumed on the following day, and prosecuted till past midnight. In the course of the second evening, the motion of Mr. Maule was cordially supported by Sir George Grey, Sir A. Leith Hay, and Mr. Campbell of Monzie, and opposed by Mr. Cumming Bruce, Lord John Russell, the Solicitor-general, and Sir Robert Peel. It was, of course, a thing to have been expected, that the Solicitor-general should have responded to the challenge of Mr. Rutherford, and have met the church's claim to

an exclusive jurisdiction, in matters spiritual, by an examination of the statutes to which Mr. Rutherford had, at great length, referred, and on which the church's claim was founded. He met it thus, and the fact forms one of the most significant and instructive incidents in this memorable debate. "What," said he, "was the claim of the church of Scotland? * * * It was this, the church said, 'We have an exclusive jurisdiction in matters spiritual,'—so far he went along with them; but when they said, 'We are the exclusive judges of what are ecclesiastical matters; we do not deny that there is a concurrent jurisdiction in the courts of law, we allow them the right of determining what are civil matters; but we claim exclusive authority in all ecclesiastical matters.' And was it supposed that courts so constituted could act harmoniously together? He could not believe that such was the law of Scotland; he could not conceive how courts, with such a species of concurrent jurisdiction, could go on together, each being independent of the other, and both without appeal to any higher tribunal." It hardly became either so accomplished a lawyer as Sir William Follett, or so momentous an occasion as that on which he spoke, to dispose of a great question of constitutional law, affecting the most sacred rights of the national church of Scotland, by telling the house what he could, or could not believe. It was only, however, an additional example of what has been noticed again and again in this history,—that the powers assumed by the courts of law rested for their chief support not on a calm, and patient, and candid examination of what the law *is*, but on a naked

The Solicitor General's reply to Mr. Rutherford.

The reply of the Solicitor General not worthy of the occasion, nor of himself.

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assumption of what the law *ought to be*. Facts were made to bend to opinions, instead of opinions being made to bend to facts. Sir Robert Peel, the first minister of the crown, was, if possible, even more emphatic than Sir James Graham in his repudiation of the church's claims. He vindicated, out and out, the conduct of the Strathbogie ministers, and condemned the church as having, in its proceedings against them, "laid claim to greater powers" than ever were claimed, even before the reformation, by the church of Rome itself. On the question of jurisdiction, the hinge of the whole matter, he gave his judgment in these words: "But the question is, where and by whom the boundaries of civil and ecclesiastical questions are to be defined? It seems to me, that the power to determine in such a matter rests with the tribunal appointed by parliament, which is the house of lords." IT SEEMS TO ME; yes, this is the sum of the argument, on the strength of which the church of Scotland was to be refused even a committee of inquiry by the British house of commons. Lord John Russell spoke with deep feeling of the calamity which he saw impending. He stated that his original inclination had been to have moved, as an amendment on Mr. Maule's motion, that the house should address the crown, praying that some way might even yet be devised "to avert the destruction of the church of Scotland." Not knowing, however, what difficulties there might be to hinder the government from interposing by any legislative movement, he did not feel himself warranted to adopt this course. He had already expressed his substantial concurrence in the

Sir R. Peel more decided, if possible, against the Church than even Sir J. Graham.

The sum of his argument: "*it seems to me.*"

Lord J. Russell's speech: deprecates the disruption.

sentiments of Sir James Graham's letter on the church's claim to independent spiritual jurisdiction; and it was certainly, therefore, very vain, however well intended, after this, to say, as he did at the close of his speech, "I trust that nothing that may fall from the first lord of the treasury (who had not then spoken) will prevent this house, or a great part of this house, from still entertaining a hope that the calamities we fear may be averted, and that a church which has been so eminent, which has performed its duties so well towards the people of Scotland,—duties of the due performance of which the talents and the morality of the people of Scotland are the best and most enduring proof,—will be preserved, as it has heretofore been preserved, to be still of use, and to be still an example in times to come." Sir Robert Peel, as has already appeared, was deaf to this call; and with the views which, in common with Lord John Russell, he entertained on the question of jurisdiction, he did well to be deaf to it. Having first sanctioned the doctrine of the civil supremacy in matters spiritual, it would have been vain, on that footing, to proceed to legislate for the ancient church of Scotland. He did better to reserve his legislation till a somewhat later period, when an institution, taking to itself the name of the church of Scotland, was found willing to be dealt with on these degrading terms.

Lord John hopes Sir R. Peel will not take away all hope of a settlement.

No settlement on the footing of Lord John's views could be accepted by the Church.

The motion of Mr. Maule was rejected, upon a division, by a majority of 135: the numbers being 76 for, and 211 against it. It is not undeserving of notice, that of the 37 Scotch members who were present at the division, 25 voted with Mr. Maule. It

Mr. Maule's motion lost.

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Two to one of the Scotch members vote with Mr. Maule.

was not simply, therefore, the voice of Scotland's church, but the voice of her national representatives, that was that night overborne in the British parliament. The fact is one which an impartial posterity will mark and remember.

In this decisive vote of the house of commons, taken in connection with the previous official communication from the executive government, the church had now at length received a full and explicit answer to her claim of rights. That claim, adopted by the general assembly of 1842, by a majority of two to one, declared distinctly what those terms were, on which alone the church, consistently with her own constitution and laws, and with her allegiance to the Lord Jesus Christ, her only King and Head, could or would continue in union with the state. The state had now unequivocally rejected these terms, and had intimated most unmistakeably to the church that she could continue to enjoy the temporal immunities and emoluments of her civil establishment, only on the footing of submission to that right of control, even in matters spiritual, which the civil tribunals had assumed and exercised, and against which she had solemnly protested, as a grievous wrong and an intolerable oppression. There was, therefore, no room now for any middle course. To abandon her claim of rights, or to abandon her establishment,—these were the only alternatives that remained. In the convocation it had been unanimously agreed, that if the legislature should even be simply silent upon the question, after the claim of rights should have been formally brought before it, and if, at the same time, no steps should be

The Church had now received her final answer from the State.

The only alternatives that now remained.

taken to redress the grievances of which that claim of rights complained,—this of itself ought to be held as a practical rejection of the church's claims, amply sufficient to warrant and require her to renounce her establishment. It was the opinion, indeed, of a few of the members of the convocation, that in the event of the legislature being found to pursue that purely negative course, some latitude must be allowed, in determining the precise point of time, at which that negative course should be held to have acquired, the meaning and force of a positive utterance upon the question at issue. It pleased God, however, in His great mercy, that no darkness of this kind should be allowed to bewilder any one,—that there should be no twilight even, when the day for action came,—but that the light should arise upon the path of His servants unclouded and at once,—and so as that the wayfaring man, though a fool, should not err therein. The response which the state gave was not veiled under a hesitating and dubious reserve. The demands of the church had been met with a clear, emphatic, and unqualified No.

The path of the Church was made plain.

The two months which intervened between that memorable vote of the house of commons and the meeting of the general assembly, were spent in busy preparation for the event which had now become inevitable. A committee, embracing many of the ablest men in the church, sat from day to day, and laboured with untiring zeal and energy in making all things ready. A series of "communications" were addressed to the members of the church, to keep them fully informed of the great movement that was now in

Busy preparations for the disruption.

CHAP. XV. progress, and of the reasons which had rendered it a matter of imperative necessity and duty. Means were adopted to organize every where, into a distinct and well compacted body, the adherents of those great principles which were now at stake. Associations were formed in almost every parish for raising funds to build new places of worship, and to support the ministry when the deed of the church's disestablishment should have been completed. Over the whole business of this financial department Dr. Chalmers presided, and brought to bear upon it all his commanding energy and consummate wisdom. At a much earlier period, indeed, he had striven hard, with his characteristic foresight and practical sagacity, to get all this done. In the convocation he expounded his views upon this subject at great length, and showed how, by a united effort, the offerings of the people might be made to replace the alienated endowments of the state. He was then listened to, as he afterwards complained, with an incredulous ear. When the ship was going to wreck he had painted up, and brought alongside a life-boat, as one of the members of the convocation said at the time, that looked almost as good as the ship itself. But the speaker who gave this account of the embryo "Sustentation Fund," like the members of the convocation generally, were evidently inclined to look upon the scheme as little better than a devout imagination. They had made up their minds to forsake all, that they might follow Christ, and were not careful to inquire what their after condition, as to temporal support, might be. At that moment they were too much occupied with

Associations forming everywhere to receive funds.

Dr. Chalmers and the Sustentation Fund.

Unwillingness of the ministers to engage in a movement connected with their own support.

the fact itself, involved in the resolution to which they had come, to be in a favourable condition for considering what was to follow. There was, in truth, a feeling extensively prevalent among the ministers, and one which generous minds will both understand and appreciate, that it did not become them, at that movement, to be busying themselves, or taking the lead, in arranging for their future provision. It seemed to them every way more suitable, that whatever plans might be necessary for that purpose, should take their rise among the elders and private members of the church. The feeling was as natural as it was certainly strong and universal,—and hence the little success which Dr. Chalmers had in his efforts to enlist the convocation in support of his noble scheme. Not more, however, in the devising of that scheme than in thus setting himself at once to the task of teaching it to his brethren, and of stirring them up to embrace and act upon it, did he exhibit the superiority both of his genius and of his faith. The event that was now approaching was not in his eye,—never was even for a single moment,—a question of personal, but a question of public interest. The thought of what the disestablishing of the church might cost hundreds of faithful ministers and their families, touching and solemn as it was, was lost in great measure to him, in the grander and diviner thought of what it might cost to God's cause and truth, and to the imperishable souls of men. Not to maintain a clergy, but to maintain the gospel of Christ in purity and power throughout the parishes of Scotland,—not in great towns and populous districts alone, where the necessary temporal resources might be abundant, but even in the remotest

The grand object that was before the mind of Dr. Chalmers.

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highland glens, in the far Hebrides, and in the distant Orkney and Shetland isles,—this was the grand idea which his mighty mind had conceived, and with which his large heart was filled. To him that idea owed its being and birth, and to him also, under God, was mainly due the prodigious progress which had been made towards the realizing of it, before that day arrived when it was to become the chief earthly dependence of the disestablished church of Scotland.

Progress of Dr. Chalmers' scheme.

While these important economical arrangements were rapidly maturing and consolidating in the hands of Dr. Chalmers and his vigorous committee, other measures of hardly inferior moment were receiving not less careful consideration, and were gradually acquiring substance and form. Chief among these was the particular and eventful deed by which her separation from the state was to be consummated by the church; and not merely the deed itself, but the time and manner of doing it. The result of the many anxious consultations that were held upon this subject, was the adoption of that PROTEST, destined to become so memorable, in which the church laid upon the supreme civil power, the entire and exclusive responsibility of dissolving a union, which had subsisted unbroken since the revolution.

Consultations as to the time and manner of effecting the Church's separation from the State.

The protest was submitted to a meeting of those ministers who approved of the convocation resolutions, in St. Luke's church, Edinburgh, on the evening of Monday, the 15th of May.* This meeting was resumed on the evening of Tuesday, the 16th,—and again, on the evening of Wednesday, the 17th. It was numer-

Confidential meeting of ministers in St. Luke's Church.

* Including those who had given in their adhesion subsequently to the convocation, the second series of resolutions had been signed by 480 ministers.

ously attended on all these occasions, and was pervaded by the most unbroken harmony. By the time its sittings were concluded, the protest had received the concurrence and signature of about 400 ministers. The particular copy of the protest that was to be used in the general assembly, was of course subscribed only by persons who had been chosen as commissioners to that supreme court of the church.

The protest already signed by 400 ministers.

Meanwhile, no effort had been spared to secure at least an apparent majority on the side of erastianism, in the general assembly. The hint given so promptly and significantly by Dr. Cook, in the commission on the 31st of January, had not been thrown away. It was acted on by no fewer than twelve different presbyteries, in all of which the moderate party made a causeless schism, by separating themselves gratuitously and unconstitutionally from the other members of the court,—a movement, the evident and only design of which was, to gain a position in which they might issue a pretended commission to men of their own party, to sit in the approaching assembly. From each of these twelve presbyteries, a double return was accordingly made,—and two separate sets of commissioners appeared for each of them, all claiming a title to be recognised as members of the supreme court of the church. This breaking up of the presbyteries was of course quite as uncalled for, and as unconstitutional, as was the attempt of Dr. Cook to break up the commission. Had Dr. Cook and his supporters, when they withdrew from the commission, adjourned to some other place and assumed to themselves the functions and prerogatives of the body which they

The breaking up of Presbyteries and the double returns to the Assembly, according to Dr. Cook's hint in the Commission.

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Unconstitutional character of these proceedings.

had left,—that is, of the commission of the general assembly of the church of Scotland,—their acts would have been no whit more incompetent and illegal, than were those of the various parties of their zealous friends who made the corresponding movement, already described, in the several presbyteries to which they belonged.

The method of making spurious returns was not, however, the only one by which the numbers, on the side of moderatism, were to be bolstered up in the assembly. All the arts of diplomatic cajolery, and all the sordid influences of terror and self-interest, were brought, both publicly and privately, to bear on those who had hitherto been identified with the non-intrusion and spiritual independence cause. The men who had themselves already given way, were now the busy agents of the political and ecclesiastical managers who were pulling the strings of this most discreditable movement. They had their measure of success; and as each new deserter from his former position and principles was reported at head-quarters, the delusive imagination grew more strong and confident, among the men in power, that the threatened disruption would degenerate into an insignificant secession, and that the ten years' conflict would prove to have been little better than a clerical squabble, full of sound and fury, but signifying nothing.

Efforts made to shake the constancy of individual non-intrusionists.

At length the day that was to verify and vindicate these sinister anticipations, or to shame and silence them for ever, arrived. Thursday, the 18th of May, 1843, dawned on the ancient metropolis of Scotland, —and as the morning wore on, the crowded state of

The day of the DISRUPTION. The 18th of May.

the leading streets, and the look of excitement and expectation which appeared on almost every countenance, must have betrayed, even to the most ignorant and careless observer, the approach of some great event. The Marquis of Bute was again the queen's commissioner to the assembly; and had, as usual, taken up his temporary residence in Holyrood. Seldom, if ever, had the reception rooms of the old palace been so thronged as they were on this memorable occasion. More loyal men than those who were to do the deed of that day, did not live within the far-reaching dominions of Queen Victoria. By their presence at the levee of her majesty's representative, they desired to show that the solemn act by which they were about to proclaim their allegiance to their heavenly King, interfered not with their profound attachment to the person, nor with their religious reverence for the authority, of their earthly sovereign. When the hour for opening the levee came, the spacious throne-room of Holyrood was filled with so dense a multitude—clergy and laity, soldiers and civilians, crowded and commingled into one indiscriminate throng,—that when the living current began to move, nothing but the barrier which fenced in the spot where the commissioner stood could have saved his Grace from being swept away. By a somewhat singular coincidence, Lord Bute had taken up his position right opposite to the picture of that King William under whose auspicious reign the free constitution was ratified to the church of Scotland, upon which, throughout the ten years' conflict, she had taken her stand. Exactly beneath this picture was the narrow

Holyrood and the Commissioner's levee.

The crowd.

Lord Bute and King William's picture.

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The King's picture drops from the wall: a symbol of the fall of the Revolution settlement.

The levee over, the commissioner proceeded, with more than all the customary pomp and circumstance of his semi-regal procession, to the venerable church of St. Giles. The moderator of the preceding assembly, the revered and learned Dr. Welsh, preached the sermon, having chosen for his text these appropriate words—"Let every man be fully persuaded in his own mind."† Having spoken of the immemorial practice by which the solemn services of public worship had been wisely made to precede the annual meeting of the general assembly,—"Never," said the preacher, "in the history of the church of Scotland has there been a period when the benefit of such preparatory exercises was more urgently required. The controversy that has so long distracted our church and country, is at last to be brought to an issue. * * * The events which are in progress are of such magni-

Dr. Welsh the moderator's sermon.

* The voice was that of William Houison Craufurd, Esq. of Craufurdland, the representative of one of Scotland's oldest families, and an unflinching supporter of the church of 1690.

† Rom. xiv. 5.

tude as to carry all along with them in one or another direction. The collision reaches so far, that all must be involved in it. Nor will the issues of our doings be limited in their extent, or of temporary interest. The eyes of all christendom must be attracted to our struggle. What is done will not be easily undone: and the part that each one of us may this day take, must send an influence, for good or evil, throughout succeeding generations. In circumstances so momentous, having already joined together in earnest supplications for that wisdom which is never denied to those who ask it from above, in faith, nothing wavering,—it now becomes my duty, before we go forth to proclaim to the world what our sentiments are, and to seal our declaration by an irrevocable act, and while we still continue outwardly united as brethren, to take a calm review of those scriptural rules by which we should be guided in this great crisis." Having, accordingly, opened and expounded these rules, with all the accuracy of an accomplished divine, and at the same time with the characteristic clearness and force of his thoroughly philosophic mind, he proceeded to notice some of those appeals by which it was sought to dissuade himself and his friends from the course, which, in obedience to the principles of his text, they were that day about to pursue. That course, it was alleged by some, was at variance with the spirit of peace. "You wish for peace," said the preacher, repeating the emphatic words of Luther, "but it is the peace of the world, and not of Christ. Our God has placed His peace in the midst of war. To be free merely from external violence, is not to enjoy real repose:

The solemnity of the occasion as described by the preacher.

Luther on a time-serving peace.

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The true peace.

but to be assailed by those around us, and to have all events against us, and to bear up under all with tranquillity and joy, *this—this* is peace. You say with Israel—peace, peace !—say rather with Christ—the cross, the cross !—and then the cross will cease to be the cross when you can cry out—Thrice blessed tree, there is no wood like thine." But again, and this was the remonstrance of others—"Should not we yield to the wishes of earthly superiors, or conform to the practice of our brethren in matters indifferent? And again the answer is,—We are bound to yield and to conform if the question is one of indifference to ourselves, but not otherwise. We cannot yield what conscience claims. The neglect of this distinction has proved more destructive of christian integrity of character, than almost any other cause. It has enslaved thousands and tens of thousands to the church of Rome: it had well-nigh made shipwreck of the cause of the reformation in Germany, after Luther was taken from the helm: and it still prevails to a woful extent in many of the reformed churches. The insidious form in which it presents itself, constitutes its formidableness. Do you claim infallibility? Do you pretend to more wisdom than many of the wise and good? Will you peril a holy cause for a position that men, it may be better than yourselves, do not admit? Have you no regard to consequences to yourselves, and those who are dear to you, upon a subject where there is a difference of opinion? None but those who have been tried can know the torture of coming to a resolution in the face of such objections. The frowns of tyrant power, the violence of popular tumult,

The preacher's answer to the question,—should we not give way?

The severity of the trial.

the fragments of a falling world, are but vulgar elements for shaking the fixed purpose, in comparison with the appeal to the modesty and ingenuous candour and self-denying respect for others of the humble christian. And so it often is that the stability of the soul is lost; and the principles which should form the nourishment of constant virtue, are employed in ministering to its destruction. It is seething the kid in its mother's milk. But the apostle, in the passage before us, presents a rule that frees the humble christian from the ensnaring perplexity, and he again walks in an unclouded sky." The rule was this,—that each man must form his own decision, and act upon his own responsibility. He must answer for himself in the great day of accounts; and not on the example or authority of men, but only on what he truly believes to be the mind and will of God, can he venture to appear before the righteous Judge of all.

The way to meet it.

It was about half-past two o'clock when the tramp of the military cavalcade and the sounds of martial music, announced the approach of the Queen's commissioner to St. Andrew's church, where the assembly had been appointed to meet. Dr. Welsh had arrived and taken his place in the moderator's chair a few minutes before. As the commissioner entered the church, the assembly and the audience rose to receive him with the deference due to the representative of the crown. The lord advocate, the lord provost of the city, the commander of the forces, and a crowd of other distinguished personages, civil and military, not unmingled with the gentler sex, thronged every inch of the space around the throne. The central area of

Arrival of the Moderator and Commissioner in St. Andrew's Church

CHAP. XV.

The members and the audience.

the church, allotted to the members of assembly, was densely filled, while on the front cross bench might be seen representatives from various other churches, who had come, many of them, from distant continental countries, to witness the transactions of this memorable day. The rest of the building, from the floor to the roof, presented one living mass, which left no available spot unoccupied within the walls. Hundreds had been there, making sure of their places, since break of day, while thousands more, unable to gain admission, thronged the adjacent street, awaiting, in eager expectancy, the result of those proceedings which were now about to begin. The first movement was towards

The Moderator's prayer and address.

the throne of God, the moderator leading the devotions of the meeting in a solemn and earnest prayer. As soon as the members had resumed their seats, Dr. Welsh again rose and, amid breathless silence, spoke as follows:—"Fathers and brethren, according to the usual form of procedure, this is the time for making up the roll; but in consequence of certain proceedings affecting our rights and privileges—proceedings which have been sanctioned by her majesty's government and by the legislature of the country—and more especially in respect that there has been an infringement on the liberties of our constitution, so that we could not

Reasons why this court cannot be constituted.

now constitute this court without a violation of the terms of the union between church and state in this land, as now authoritatively declared, I must protest against our proceeding further. The reasons that have led me to come to this conclusion are fully set forth in the document which I hold in my hand, and which, with permission of the house, I shall now proceed to

read."* This document embodied the solemn protest of the church of Scotland against the wrongs of the civil power, and was signed by 203 members of the house. CHAP. XV. The Protest signed by 203 members.

"We, the undersigned ministers and elders,"—these were its opening words,—"chosen as commissioners to the general assembly of the church of Scotland, indited to meet this day, but precluded from holding the said assembly, by reason of the circumstances hereinafter set forth, in consequence of which a free assembly of the church of Scotland, in accordance with the laws and constitution of the said church, cannot now be holden,—*consider*, that the legislature, by their rejection of the claim of rights adopted by the last general assembly of the said church, and their refusal to give redress and protection against the jurisdiction assumed, and the coercion of late repeatedly attempted to be exercised over the courts of the church, in matters spiritual, by the civil courts, have recognized and fixed the conditions of the church establishment, as henceforward to subsist in Scotland to be such as these have been pronounced and declared by the said civil courts in their several recent decisions, in regard to matters spiritual and ecclesiastical." Introductory paragraph.

Here the protest specified and described, under eight distinct heads, the several vitally important points in regard to which it had now been definitively declared by the supreme power of the state, that the civil tribunals had, and henceforth must continue to have, jurisdiction over the church, as a national Grounds of the protest.

* Vide Appendix, No. II., where the Protest will be found in full.

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The *particular* matters in which the rights and liberty of the Church have been taken away.

establishment. These points embraced,—the ordination and admission of ministers,—the preaching of the gospel, and administration of its ordinances,—the spiritual censures of the church, including the deposition of ministers, and the deprivation of licentiates,—the composition and constitution of the church courts, and the exercise of their whole spiritual authority,—processes of church discipline,—the conferring upon ministers of the full spiritual rights of their office,—and the making provision for the extension among the people of the means of grace, according to Christ's institution.

Under such a state of things, authoritatively pronounced to be the law of the land for the regulation of the established church, the assembly could not now be constituted without the entire and deliberate abandonment of those great principles and prerogatives set forth in the claim of rights, as inherent in the constitution of the reformed church of Scotland. The conditions on which alone the state had thus declared that the church could continue to retain her civil establishment, were conditions incompatible with her standards and laws, and to which it was not possible to conform without betraying her allegiance to Him who is her only King and Head, and casting away that precious birthright of spiritual liberty with which He had made her free.

The conditions thus insisted on by the State, incompatible with true allegiance to Christ.

"We, therefore," the protest continued, "the ministers and elders aforesaid, on this the first occasion, since the rejection by the legislature of the church's claim of rights, when the commissioners chosen from throughout the bounds of the church to the general

assembly appointed to have been this day holden, are convened together, DO PROTEST that the conditions aforesaid, while we deem them contrary to and subversive of the settlement of church government effected at the revolution, and solemnly guaranteed by the act of security and treaty of union, are also at variance with God's word, in opposition to the doctrines and fundamental principles of the church of Scotland, inconsistent with the freedom essential to the right constitution of a church of Christ, and incompatible with the government which He, as the Head of His church, hath therein appointed, distinct from the civil magistrate.

These conditions contrary to statutes, solemn treaty, and God's word.

"And we further PROTEST, that any assembly constituted in submission to the conditions now declared to be law, and under the civil coercion which has been brought to bear, in the election of commissioners to the assembly this day appointed to have been holden, and on the commissioners chosen thereto, is not, and shall not, be deemed a free and lawful assembly of the church of Scotland." And finally, while adhering to the great principle, that it is the right and duty of the civil magistrate to support and maintain an establishment of religion constituted according to God's word,—and while reserving the liberty to seek, by all lawful and competent means, to recover those rights which ancient statutes and solemn treaties had ratified to the church of Scotland,—"We protest that, in the circumstances in which we are placed, it is, and shall be lawful for us, and such other commissioners chosen to the assembly, appointed to have been this day holden, as may concur with us, to *withdraw to a separate place of meeting*, for

No Assembly constituted under these conditions is, or shall be held, a lawful Assembly of the Church of Scotland.

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Protesters hold it to be their lawful right and duty to separate the Church from the State.

the purpose of taking steps, along with all who adhere to us,—maintaining with us the confession of faith and standards of the church of Scotland, as heretofore understood,—for *separating in an orderly way from the establishment;* and thereupon adopting such measures as may be competent to us, in humble dependence on God's grace and the aid of the Holy Spirit, for the advancement of His glory, the extension of the gospel of our Lord and Saviour, and the administration of the affairs of Christ's house, according to His holy word: and we now WITHDRAW accordingly, humbly and solemnly acknowledging the hand of the Lord in the things which have come upon us, because of our manifold sins, and the sins of this church and nation; but at the same time, with an assured conviction that we are not responsible for any consequences that may follow from this our enforced separation from an establishment which we loved and prized, through interference with conscience, the dishonour done to Christ's crown, and the rejection of His sole and supreme authority as King in his church."

They are not responsible for the consequences of this enforced separation.

When the last of these solemn sentences had left the moderator's lips, he laid the protest upon the table of the house, and turning round towards the commissioner, who rose in evident and deep emotion, Dr. Welsh bowed respectfully to the representative of the queen, and in so doing, bade the church of Scotland's farewell to the state. That brief but solemn and significant action done, he lifted his hat from the table and went forth from the degraded establishment. As he moved with calm dignity from the chair, Dr. Chalmers, Dr. Gordon, Dr. Patrick M'Farlan, Dr.

Dr. Welsh bows to the Commissioner the farewell of the Church to the civil power.

Thomas Brown, Dr. M'Donald, the fathers of the church, men who were its strength and glory, one after another, rose and followed him. It was a moment of intense and overpowering interest. The immense audience looked on, thrilled with feelings which it is impossible to describe,—but not a voice, not a whisper was heard. The sensation was too deep for utterance; in very many, not females alone, but strong-minded men, it found vent in tears. The veteran warriors of the church's conflict were leading the way; how many were to follow? This evidently was the agitating inquiry which at that moment absorbed the minds of those who, with the incredulity of infatuation, had hitherto treated the event, which had now come, as a delusion and a dream. The chief law officer of the crown, who stood beside the commissioner, looked down from his elevated position with an anxiety which no effort could disguise, to mark how far his previous representations to men in power, and the facts now before him, might be found to agree. Dr. Candlish, Dr. Cunningham, Mr. Campbell, of Monzie, Mr. Dunlop, and others, familiar names in the struggle which had now reached its close, were seen moving on after those who had gone before. These are men committed, compromised, by the prominent part they have played in this warfare; they cannot do otherwise; they cannot draw back,—and the establishment will be quieter when they have retired. But the quiet country ministers occupying these crowded benches behind,—it is not possible that they can design to cast themselves and their families into the midst of poverty and want. Such, probably, were the

As Dr. Welsh retires, he is followed by the fathers of the Church.

Anxiety of certain onlookers.

Will more than the leaders go? Will the quiet country ministers?

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The continuous stream from the benches towards the door.

thoughts that were rivetting the feverish gaze of more than one high legal functionary upon the constantly expanding blank that yawned so ominously on the left side of the house,—as bench after bench poured its occupants into the stream which kept constantly flowing towards the door of the church. There was no hurry, no rush, no confusion. Rank after rank the protesters withdrew, with the order and steadiness of the successive companies of a military host. One entire side of the assembly, and the whole of the cross benches, were left untenanted. The life had departed from the establishment, and those who remained, gazed upon the empty space as if they had been looking into an open grave.

The void left, and the aspect of those who remain.

But where was now the head of that column of confessors which had marched forth from St. Andrew's church? As those who led it on emerged into the street,—as the gown and bands of the moderator, the grey hairs of the massive head of Chalmers, and the majestic brow of Gordon, seen through the opening crowd, proclaimed that the deed was done,—a whisper ran like wildfire through the congregated multitudes, "They come! they come!"—and the air was rent with the shout of admiration and gratitude with which the people gave Scotland's welcome to the defenders of the liberties of Scotland's church. It was neither the design nor the wish of the protesting body to move in procession to their intended place of meeting, but the crowd constrained them. By a spontaneous movement on the part of the masses who filled the streets, a lane was opened in their midst,—and through the surging sea of the excited but pro-

Reception of the confessors by the multitudes without.

foundly respectful throng, did the host pass out of Egypt, to take possession of that "large and wealthy place" which the Lord had provided for them.

The host pass through a sea of people towards their future resting-place.

In the manner now described, the procession moved on towards Canonmills, a suburb lying at the northern extremity of the city. Here an immense hall, capable of accommodating at least 3000 persons, had been procured, and hastily fitted up for the reception of the disestablished assembly. From an early hour of the day, the entire area, with the exception of the space set apart for the members, was crowded in every part, —and when at length the eagerly expected moment arrived, and the representatives of the protesting church were seen entering the hall, the enthusiasm of the audience knew no bounds. When this irrepressible outburst of feeling had subsided, Dr. Welsh, who had meanwhile taken the chair, rose and lifted up his hands as the signal for prayer. No one who was present on that memorable occasion can forget, while he lives, the thrilling pathos and overpowering solemnity of that prayer. It carried back the mind to the days of the Redeemer's flesh,—when He, the church's now exalted Head and Lord, Himself dwelt on earth,—and when, upon the mountain side, or by the shores of the sea of Galilee, with no covering but the canopy of heaven above those who followed Him, He had preached the gospel of the grace of God: and it sought that His presence might be with His servants now, when they too were about to go forth into the open fields, compelled to forsake the pleasant tabernacles of their fathers, in order to maintain

Canonmills. The Hall of the Free Assembly.

The thrilling prayer of Dr. Welsh.

CHAP. XV. unbroken their fathers' testimony for Christ's covenant and crown.

The prayer ended, and the immense audience having resumed their seats, Dr. Welsh, after a short pause, again rose and said—"Reverend fathers and brethren, I presume our first duty, in the circumstances in which we are placed, unquestionably is the choice of a moderator: and I feel assured, that the eyes of every individual in this assembly—the eyes of the whole church and country—the eyes of all christendom, are directed to one individual, whom to name is to pronounce his panegyric. In the exhausted state in which my numerous duties have left me, it is scarce in my power to say more; but indeed I feel that more would be superfluous. The extent of his labours, in connection with our present position, would justly entitle Dr. Chalmers,—(at the mention of his name the whole vast audience rose, and gave vent, by one spontaneous burst of rapturous applause, to the love and admiration which that name awakened in every breast,)—would justly entitle that great man," Dr. Welsh continued, so soon as he was allowed to proceed, "to hold the first place in this our meeting. But surely it is a good omen, or rather I should say a token for good, from the great Disposer of all events, and the alone Head of the church, that I can propose to hold this office an individual who, by the efforts of his genius and his virtues, is destined to hold so conspicuous a place in the eyes of all posterity. But this, I feel, is taking but a low view of the subject. His genius has been devoted to the service of his

Address of Dr. Welsh.

Nominates Dr. Chalmers as Moderator of the Free Assembly: the enthusiasm of the audience.

heavenly Master,—and his is the high honour promised to those who, having laboured successfully in their Master's cause, and turned many to righteousness, are to shine as the stars for ever and ever."

Address of Dr. Chalmers.

"I deeply feel, fathers and brethren," said Dr. Chalmers, when he took the chair, "my inadequacy for the labours of the office which you have been pleased to confer upon me. I undertake it in fear, and in weakness, and in much trembling. But we have a warrant, when urged by the feeling of insufficiency, for making a devout approach to Him in whom alone strength and sufficiency are to be found. I beg to propose, that we shall begin, before proceeding to the business of this assembly, by an act of worship and by prayer to almighty God, on the duties and prospects which lie before us."

A heavy thundercloud had for some time darkened the heavens, and as the eye ranged at that particular moment over the dense mass of human beings who covered the immense area of the low-roofed hall, individual forms had almost ceased to be distinguishable through the sombre shade. The psalm which Dr. Chalmers had chosen was the XLIII. He began at that touching and beautiful line—

The psalm: darkness turned into day.

"O send thy light forth and thy truth:"

and as the words sounded through the hall, the sun, escaping from behind his cloudy covering, and darting through the windows which pierced the roof, his brilliant beams turned on the instant the preceding darkness into day. It was one of those incidents which only superstition could misunderstand,—but which,

CHAP. XV. at the same time, is entitled to its own place among those traits of the picturesque which belonged to the scenes we are describing.

Dr. Chalmers recapitulates the grounds of the disruption.

The devotions being concluded, Dr. Chalmers, as moderator, addressed the house; and after recapitulating, succinctly and clearly, the grounds of the disruption, as these were embodied in the protest,—and having spoken of the rejection by the legislature, of the appeal in vindication of her claims, which the church had made to that ecclesiastical constitution which the state itself had ratified,—he proceeded thus: "We now make a higher appeal, from our constitution, which has been disregarded, to our conscience, which tells us, that the ecclesiastical ought not to be subjected to the civil power, in things spiritual. We are, therefore, compelled, though with great reluctance and deep sorrow of heart, to quit the advantages of the British establishment, because she has fallen from her original principles, in the hope that we shall be suffered to prosecute our labours in peace on the ground of British toleration. These are the principles that have occasioned the movements of this day, and brought us together on the present occasion. And now, reverend fathers and brethren, it is well that you should have been strengthened by your Master in heaven to make the surrender you have done, of every thing that is dear to nature,—casting aside all your earthly dependence rather than offend conscience, incur the guilt of sinful compliance by thwarting your own sense of duty, and run counter to the bible, our great church directory and statute book. It is well that you have made for the present a clear escape

The strength that has been received by all for the self sacrificing duty of that day.

from this condemnation,—and that in the issue of the contest between a sacrifice of principle and a sacrifice of your worldly possessions, you have resolved upon the latter; and while, to the eye of some, you are without a provision and a home, embarked on a wide sea of uncertainty, save that great and generous certainty which is apprehended by the eye of faith, that God reigneth, and that He will not forsake the families of the faithful. We read in the scriptures, and I believe it will be found true in the history and experience of God's people, that there is a certain light, and joyfulness, and elevation of spirit, consequent upon a moral achievement such as this. There is a certain felt triumph, like that of victory after conflict, attending upon a practical vindication, which conscience has made of her own supremacy, when she has been plied by many and strong temptations to degrade or to dethrone her. Apart from christianity altogether, there has been realized a joyfulness of heart, a proud swelling of conscious integrity, when a conquest has been effected by the higher over the inferior powers of our nature: and so, among christians too, there is a legitimate glorying, as when the disciples of old gloried in the midst of their tribulations, when the spirit of glory and of God rested on them, when they were made partakers of the divine nature and escaped the corruption that is in the world: or as when the apostle Paul rejoiced in the testimony of his conscience. But let us not forget in the midst of this rejoicing, the deep humility that pervaded their songs of exultation: the trembling which these holy men mixed with their mirth: trembling arising from a

No uncertainty in the future to the eye of faith.

The joy which the testimony of a good conscience brings.

They must rejoice with trembling.

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sense of their own weakness: and then courage, inspired by the thought of that aid and strength which were to be obtained out of His fulness who formed all their boasting and all their defence. Never in the history of our church were such feelings and such acknowledgments more called for than now: and in the transition we are making, it becomes us to reflect on such sentiments as these,—'Not me, but the grace of God in me,'—and, 'let him that thinketh he standeth take heed lest he fall.'"

The need of humility.

When the moderator concluded his address, the Rev. Dr. Duncan, of Ruthwell, moved that the Rev. Dr. Clason, of Edinburgh, and the Rev. Thomas Pitcairn, of Cockpen, be appointed clerks of the assembly. These gentlemen having assumed their places at the table,—a copy of the protest which had been taken in the presence of the queen's commissioner was read, along with the names attached to it. "The number who had signed that protest," said Dr. Candlish, when the reading of the document had been completed, "were a majority of those whom alone they could recognize as the lawful members of assembly: and he had to propose that the protest should lie open for signature by other members, and that their signatures should be held *ipso facto* as admitting them members of this assembly. In addition to this protest, a concurrence in it had been signed by those who were not members of assembly, and he had now to propose that the assembly should at once assume into their body, as members of the house, all the ministers who had signed that concurrence, together with one elder from every adhering kirk-session." The

Clerks of Assembly chosen; and the Protest read.

Motion of Dr. Candlish in reference to those who may adhere to the Protest.

motion was adopted with the most cordial unanimity. The Rev. Dr. Patrick M'Farlan thereupon proposed the appointment of a committee to consider in what way, consistently with the forms of law, the individual protesting ministers could best, and most speedily, complete the renunciation of their benefices. Another committee was appointed to prepare an address to her majesty, for the purpose of announcing, formally and respectfully to the head of the state, the fact of the disruption, and the grounds on which the church had thus renounced her establishment. On the motion of Mr. Dunlop, arrangements were made for proceeding, at subsequent diets, with the ordinary business of the church, and especially in so far as it related to her great missionary and educational schemes. The temporary jar occasioned by the act of separating from the state, was already over, and the church, unchanged in any one point or particular of her ecclesiastical constitution and internal economy,—with her standards, her laws, and her whole presbyterian policy intact and entire,—held on her course as if nothing had occurred. A single word was employed to mark the event which had taken place. She had arisen from the dust in which the temporal power had sought to prostrate her divine prerogatives: she had scornfully cast from her neck the bands by which civil supremacy would have fettered the exercise of her spiritual functions: she had restored into the state's hands those secular immunities and emoluments, the possession of which had been made the pretext for attempting to rob her of her sacred liberty: she had put on the beautiful garments in which the bridegroom

Motion of Dr. M'Farlan in reference to the demission of their benefices, &c.

Arrangement of the business of the House.

The Church had left all and followed Christ.

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had arrayed her when he brought her out of the bondage of Babylon three centuries before,—and in order to hand down to posterity a simple, but significant memorial of this moral triumph, and of the sacrifice at the cost of which it had been won, she had selected this, as the superscription that was henceforth to be written over her,

The single word FREE, perpetuates the memory of this noble deed.

THE FREE CHURCH OF SCOTLAND.

CONCLUSION.

The Bond and the Free.

BEFORE drawing this history to a close, a brief glance must be bestowed, *first*, upon the Bond establishment, and *last* upon the Free church, which had forsaken it.

When the protestors withdrew from St. Andrew's church, the skeleton of an assembly that was left behind proceeded to put its shattered framework into shape and motion. To restore the lost equilibrium of a now one-sided house, the section already noticed by their self-invented name of the Forty, hastened to cast their great weight into the empty scale. Rushing across the house, Curtius-like to fill up the yawning gulph which the recent ecclesiastical earthquake had made in the forum of the church, they threw themselves upon the deserted benches of the non-intrusionists. In the places that had been occupied by Drs. Chalmers and Gordon, Candlish and Cunningham, Dr. Cook now beheld, confronting him, other foemen whom that veteran moderate leader pro-

The Assembly of the Establishment, when the protesters had withdrawn.

The Forty take possession of the non-intrusion benches.

bably considered not quite so "worthy of his steel." Not to shock their tender sensibilities too severely or too soon, he allowed the delicate question of the position of the deposed ministers of Strathbogie to stand over till a subsequent day. These men had commissioned two of their number, as they did the year before, to represent them as members of assembly. Among the *soi disant* reformers, on whom it now devolved to guard the spiritual independence of the establishment, some had voted, and many more had concurred, in the deposition of the seven brethren, and all of them had hitherto professed to regard it as, at the very least, a competent ecclesiastical act, which only another, and opposite exercise of church authority could set aside. To sit down, therefore, side by side, with these deposed men—to treat the solemn deed done in the name of the Lord Jesus Christ, by the general assembly of the church of Scotland, as if it were a thing of nought, was a step to which they could not be expected, all at once, to make up their minds. When the question actually came on, a few days afterwards, on Monday the 22d of May, and when Dr. Mearns, with the imperturbable consistency of his own rigid and unyielding moderatism, declared, that the sentences of suspension and deposition which had been pronounced upon the seven ministers "were *ab initio* null and void,"—and that, without more ado, these ministers must be held and recognized as having always been, and as being now, in full possession of all their ministerial and presbyterial rights and privileges: the sensation produced among the remanent representatives of evangelical and reforming principles

Dr. Cook does not all at once enforce the rigorous regime of moderatism.

The Forty get a few days to make up their minds to the prospect of owning the deposed men as ministers.

The deposition declared *ab initio*, null and void, on 22d May.

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Rev. Mr. Storie threatens Dr. Cook with a new secession.

was very considerable. The Rev. Mr. Storie of Rose-neath warned Dr. Mearns of the danger his motion might be found to involve, and "stated that upon this question he anticipated another secession." The Rev. Mr. Tait of Kirkliston "could not agree to the proposition involved in Dr. Mearns' motion, that, in reality, no sentence of deposition had been pronounced." The Rev. Mr. Stewart of Sorn, who had been, till very recently, a flaming professor of non-intrusion and spiritual independence principles, supported Mr. Storie's views in everything, save in the hint about a new secession. "He trusted indeed that his reverend friends on the other side (Dr. Mearns, &c.) would weigh well the consequences which would follow, if they carried their motion; but let their decision be what it might, he would never leave this assembly nor the church." Dr. Mearns had, no doubt, weighed the consequences of his motion well enough, and had seen nothing to fear; and though the Rev. Dr. Hill of Glasgow tried, by a gentler motion, to let Mr. Storie and his friends somewhat more softly down, the spirit of Aberdeenshire was now in the ascendant, and the motion of Dr. Mearns was carried by a majority of 148 to 33. The reader will not fail, in passing, to observe, that these two numbers united fall greatly short of the number, 203, who had signed the protest, and who had subsequently constituted the assembly of the Free church of Scotland.

Rev. Mr. Stewart of Sorn remonstrates, but will on no account leave the Assembly.

Dr. Cook's motion carried by 148 to 33.

This was already the second trial by which the submissiveness of Mr. Storie and his confederates had been put to the test. On the forenoon of that same day the veto-law had disappeared, by a process

not less summary, from the statute book of the establishment. In introducing the discussion of the subject, Dr. Cook spoke of it as already dead and gone. He declined to enter upon "the merits of their departed friend—the veto-law." After a few remarks, he accordingly moved that * * * "it be an instruction by the general assembly to all presbyteries, that they proceed henceforth in the settlement of parishes according to the practice which prevailed previously to the passing of that act." The procurator, Mr. Bell, now also among the defaulters in the day of battle, made an effort to preserve at least the shadow of ecclesiastical authority, by moving, as an amendment, that an overture be transmitted to presbyteries for the repeal of the veto-act, in the old constitutional way. Mr. Robertson, anticipating, with reason, an easy victory in this sham-fight, congratulated the house on the altered state of things. "It was pleasing," he said, "to find that the dawn of prosperity had now broken on them, and that after maintaining their principles in the face of large majorities, the constitutional-law was again to prevail." The Rev. Mr. Storie said,—"The act was an ecclesiastical act, and must be cancelled ecclesiastically." The Rev. Mr. M'Leod, of Dalkeith, was of the same mind. "He wished to repeal the veto constitutionally," and therefore he supported Mr. Storie's views. Principal Lee, too, had great difficulties about this modern method of disposing of the solemn sentences and laws of the church. To cast them out as dead corpses at the bidding of the court of session, and to deny them even the poor privilege

The Veto-law disposed of by a like summary process.

Rev. Mr. Robertson of Ellon congratulates the House on the return of prosperity.

Principal Lee and others object to expunge the Veto-law without an act of repeal.

CHAP. XV. of a decent burial,—no wonder that it shook to its topmost fibre the magnificent feather with which the learned principal had been accustomed, as clerk of assembly, to record them. He had "doubts as to this assembly exhibiting a full representation of the church. Twenty presbyteries, and various burghs, were not represented at all. He hesitated with regard to the degree of weight which might be given to a house so inadequately representing the church. He would have no hesitation in agreeing to any motion suspending the operation of this act till another general assembly should meet: that was a different thing from absolutely and in all time coming, undoing what had been done by a former assembly." Dr. Cook, however, could not afford to listen to these remonstrances, even though they came, some of them, from his own friends. To admit that the act had still a place among the statutes of the church, would have been to condemn that entire course of proceeding which he and his party had pursued. To allow that there needed an act of the church to repeal it, would have been to allow that it was still a reality, and still in force. And what, in that case, would have become of all the defences which Dr. Cook had made, and which his followers had sustained, in support of the recusant ministers of Strathbogie! Mr. Storie might not see what the principles of the moderate party required,—but Dr. Cook saw it, and had made up his mind to go through with it. It was a principle that put the standards, acts, and laws of the church, into the hands of the civil court, and which empowered that court to draw its pen through them at will,—and however humbling

Dr. Lee's speech on the subject.

Dr. Cook could not afford to give way to these remonstrances: and the reason why.

the application of the principle might be, it was now too late to quarrel with it. Mr. Storie and his friends might make wry faces, but the drug must be swallowed. They had nothing for it but to wipe their lips, and say with Sterne—"Slavery, still slavery, thou art a bitter draught." Dr. Cook's motion was carried without a vote.

The drug must be swallowed.

At another diet of the same assembly—Tuesday, 23d of May—the act of 1833, admitting the ministers of the parliamentary churches,—and the act of 1834, admitting the ministers of chapels of ease to the exercise of the full rights of their spiritual office,—and also the act of 1839, admitting to the same rights the ministers of the associate synod, who then returned to the communion of the established church,—these acts were all of them, "at one fell swoop," expunged from the records of the bond establishment. The kirk sessions and parishes, *quoad sacra*, of all the three classes of ministers to whom these several acts referred, were thus declared, by the submissive assembly, to have been laid in their graves by the resistless exorcism of the court of session. While the ministers themselves of these defunct sessions and obliterated parishes had shrunk back, like men with one arm in a sling, maimed by a blow from the secular tribunals, into their old anomalous position. They had lost the prerogative, and fallen from the duty which Christ had attached to their office, as pastors of congregations, of ruling their flocks, and of sharing in the spiritual oversight of the church. The acts were not even "rescinded," by a vote of the assembly. That expression had to be erased from Lord Belhaven's

Parliamentary Churches act, Chapel act, act as to union with seceders, &c., all expunged.

Effect of these proceedings.

CHAP. XV.

motion before Mr. Robertson of Ellon and Dr. Cook would consent to it. They had "been incompetently passed" at first; so, at least, the majority of the court of session, in deciding the Stewarton case, had said; and this was enough. The assembly had nothing more to do than to find and declare accordingly.

Like the servile parliament of Charles II., the Bond Assembly was great in acts rescissory.

The famous, or rather infamous act rescissory of the servile parliament of Charles II., was not more summary or sweeping than the process by which the not less servile assembly of the degraded establishment, effaced that whole series of reforming measures which had signalized the decade of evangelical ascendency. Nor did it fare better with the discipline than with the legislation of the church. Mr. Edwards, and Mr. Middleton, were cleared of all censure, and their forced settlements confirmed. Mr. Clark, the presentee to Lethendy, had his licence restored. The hands had gone back on the dial of history from 1843 to 1762. The dynasty of Chalmers had disappeared, and that of Robertson had been restored: and with this important and fatal aggravation of the change, that what was, in the eighteenth century, a merely administrative corruption, was now a corruption engrained in the constitution of the erastianized and dishonoured establishment.

The hands had gone back on the dial from 1843 to 1762.

It was not till Wednesday, the 24th of May, the assembly of the establishment took up the protest which embodied the deed of the disruption. Dr. Cook introduced the subject in a grave and respectful speech, at the close of which he moved, that the churches of those ministers who had signed the protest, be declared vacant, and that the necessary steps should be taken

Dr. Cook's speech on the Protest.

to have a similar declaration pronounced in regard to all other ministers who had adhered, or who should adhere to it. In making this motion, which after some discussion was unanimously adopted, Dr. Cook took occasion to advert to the protest itself. "It will be proper," he said, "that an examination of the minutest kind should be made of this protest: that a formal answer to it should be drawn up, which should be widely circulated throughout the country. We are, I have no doubt, agreed upon the point, that the pleas put forth by the protesters are in a very great degree fallacious pleas: that their views of acts of parliament are erroneous views: and we are perfectly at one in this, that their interpretations of these acts are not interpretations which, down to the last assembly, have ever been put upon the statutes, or were considered by the assembly to be legitimate interpretations. I therefore think it necessary, and it should be understood, that there is to be a committee appointed to prepare such a minute answer as I have suggested, and that that will be done after the discussion of this day." The committee was appointed accordingly,—and on Monday, the 29th, the day on which the assembly closed its sittings, the Rev. Dr. Simpson brought up that committee's report.

The Protest must be carefully examined and answered.

A committee to be appointed for this purpose.

The report having been read, and the assembly being of opinion that it did not meet the case, the procurator produced a series of resolutions which he hoped might be found more satisfactory. They elicited some compliments, but they too were found wanting. Mr. David Milne, advocate, had concurred with those in the committee who thought that such generalities

Report of the committee on the Protest.

CHAP. XV.

as the report indulged in, would not do,—and that "a specific answer should be given to the protest." The procurator's answer, though in the specific form, was not specific enough, as Mr. Milne judged, and he had himself accordingly prepared another, which he read to the assembly. Here were three answers,—but the assembly did not think it safe to commit itself to any of them. The shrewder men saw at a glance, that it was not with such small artillery they could hope to silence the formidable fire of the protest. In these circumstances, Mr. Robertson, of Ellon, proposed a motion, which after commending the diligence of the committee, and saying a few civil words concerning the attempts at an answer which had been made, went on to declare, "that a paper so important as the protest under consideration, requires to be answered with greater care, and with fuller leisure for mature deliberation than it has been found possible to give it, during the pressure of business which the assembly have had to sustain; and also, that in questions involving important points of jurisdiction, the bearings of the various judgments which have been recently pronounced by the civil courts in the numerous cases that have arisen from the illegal maintenance, on the part of the church, of the act on calls, and of the act with reference to parliamentary and *quoad sacra* churches, should be very carefully and maturely considered,—the general assembly recommit the whole case for the further consideration of their committee, and instruct them, accordingly, to report on the whole case to the commission in August." The assembly, at the same time, added various names

Three answers had been drafted but none of them will do.

Rev. Mr. Robertson's motion re-appointing the committee.

They are instructed to report to the Commission in August.

to the committee, so as to concentrate on this business what Dr. Cook declared it would require, the "best wisdom" of the house. In due time the August commission met, and the committee's report was appointed to be taken up on the following day. On the following day, the commission could not be constituted for want of a quorum, and from that month of August, 1843, till now, the answer to the protest has been heard of no more. The establishment have thus practically confessed, that the protest is unanswerable. After acknowledging that they were bound to answer it,—and after again and again trying to answer it,—they finally abandoned the attempt. This is a fact which intelligent onlookers have already noted,—and to which an impartial posterity will not fail to point,—as the virtual admission of the establishment itself, that it is not the true church of Scotland.

There is no quorum of the Commission at the time appointed; and the answer to the Protest is never more heard of.

There were a few among the sincere non-intrusionists who had clung to the hope, that even at the last moment government would interpose to avert the disruption. The last refuge of those who had been indulging in this pleasing dream, was the queen's letter to the general assembly. This, they fondly thought, was to be the gracious medium through which the good tidings they anticipated were at length to be proclaimed. Alas! when it was opened, "it contained," as one of these too credulous expectants of deliverance said, "a vague promise with regard to the question of non-intrusion; and with regard to other matters, it said, in effect, that if you, the church, will allow the civil court to put their foot on your necks,—then, perhaps, we will endeavour to alleviate

The Queen's letter, and what some expected from it.

CHAP. XV.

Passage of the Royal letter referring to legislation.

your sufferings."* The passage of the royal letter to which this statement refers was couched in these words:—"The church of Scotland, occupying its true position in friendly alliance with the state, is justly entitled to expect the aid of parliament in removing any doubts which may have arisen with respect to the right construction of the statutes relating to the admission of ministers. You may safely confide in the wisdom of parliament, and we shall readily give our assent to any measure which the legislature may pass, for the purpose of securing to the people the full privilege of objection, and to the church judicatories the exclusive right of judgment." In a word, if the establishment would accept, as a salve to heal its wounds, the formerly rejected bill of Lord Aberdeen, it was still in his lordship's laboratory, and might be had for the asking. Dr. Mearns, Dr. Cook, and Mr. Robertson, of Ellon, thought this proposed legislation was at best needless,—and they would rather have civilly declined it altogether. Out of deference, however, to Lord Aberdeen, and to the little section whose fall from their old non-intrusion principles the bill was meant to break, they agreed, not without some difficulty, to a paragraph in the answer to her majesty's letter, which intimated their willingness to accept of the proffered bill. Accordingly, on the 13th of June, the bill was brought into the house of lords by Lord Aberdeen. It was the old bill made a little more stringent. The former version of it condemned, by

The moderate leaders would rather have had no bill, but to please Lord Aberdeen and the Forty, they agree to have it.

* Statement of David Dickson, Esq. of Hartree, who left the assembly of the establishment the instant the queen's letter was read, and betook himself to the assembly of the free protesting church of Scotland.

implication, the principle of the veto-law: the present version condemned it in express terms. Even a *liberum arbitrium* measure, such as Dr. Chalmers and the non-intrusion committee had described in their correspondence with Lord Aberdeen, in 1840,—and such as had more recently been described in the course of the negotiations originated by Sir George Sinclair, would now have been too late. Had parliament passed such a measure previous to the 8th of March, 1843, it might, in that case, have been fair and competent for the church to maintain that the state had not sanctioned the jurisdiction which had been assumed in matters ecclesiastical by the courts of law. But after repudiating, as parliament did, on the 8th of March, the church's claim of rights,—and thus giving, in the most explicit form, their affirmation to those principles on which the courts of law had proceeded, —a mere non-intrusion bill would have come too late. Such a measure, passed subsequently to that decisive event, would have done nothing to restore the independence in matters spiritual of the church. It would simply have delegated, in reference to one specific matter, a certain amount of jurisdiction to the church courts,—but of jurisdiction to be held and exercised, as matter of course, under a full reservation of the supremacy of the courts of law. The bill of Lord Aberdeen was not only liable to this fatal exception, but liable to it with this additional aggravation—that it was not, in any sense of the term ever sanctioned by the church, a non-intrusion measure at all. In the course of the long and elaborate speech which his lordship made, when bringing in the bill, a remark

Lord Aberdeen's bill of 1843 more stringent than that of 1840.

Even a genuine non intrusion measure would have come too late—after parliament had rejected the claim of rights.

This bill was not a non-intrusion measure.

CHAP. XV. from one of the peers elicited from him this observation in reply, "No *liberum arbitrium*, but the utmost *liberum judicium*, if you please."* What this bill does for the people, observed Lord Campbell, on the 13th July, 1843, when it was read a third time and passed by the house of lords, is to declare "the right of grumbling on the part of every congregation in Scotland." "No doubt of that," as the Duke of Wellington significantly replied to Lord Campbell's remark. But what does the bill do for the presbytery? If the people state their reasons for grumbling,—and if these reasons be such as the bill allows,—and if, still further, they be reasons of which the presbytery will undertake to pronounce judicially, that, all things considered, they are good and sufficient reasons for rejecting the presentee, the bill will permit them to reject him accordingly: always, however, with this important proviso—that the presbytery's judgment shall be liable to be reviewed and reversed by the courts of law. First, the bill puts the congregation under the heel of the presbytery,—and next, with even-handed justice, it puts the presbytery under the heel of the court of session.

Lord Campbell's description of the right which it gave to the people.

The bill enslaves the people to the Presbytery, and the Presbytery to the Court of Session.

While the bill was under discussion in the house of lords, a fact came broadly out which will not fail to suggest some curious reflections to the reader's mind. It will not be forgotten that the first Auchterarder judgment was the immediate occasion of bringing the civil and ecclesiastical courts into collision; and in the hands of the Dean of Faculty, and his friends, became

A curious fact.

* Report of debate in House of Lords—Scottish Guardian, June 16, 1843.

the lever that loosened the foundation of the ancient constitutional bulwarks of the church's spiritual independence, and, finally, levelled them in the dust. That judgment was founded on a view of the law which the house of lords now, in effect, declared to have been erroneous. The bill of Lord Aberdeen did not profess to make any change of the law, but simply to remove doubts as to what the law really was and all along had been. But, nevertheless, what it did declare to be the law, Lords Cottenham and Brougham expressly and emphatically affirmed was not the law according to which they had given judgment in the Auchterarder case. "If," said Lord Cottenham, "the judgment pronounced in that case was a right one, the present bill was not in accordance with what he conceived to be the existing law of Scotland, and, entertaining that view, he could not agree with the second reading" of the bill. On the same occasion, Lord Brougham, his colleague in the Auchterarder judgment, concluded his speech in these words:—"On these grounds, he held that, if the present bill were to be considered as truly declaring the law, their lordships should not have decided the Auchterarder case as they did; but he knew the bill did not correctly declare the law, and, therefore, his opinion remained unchanged, that the Auchterarder case had been properly decided." In these views Lords Cottenham and Brougham—supported by Lord Campbell, who had been counsel for the parties who gained the Auchterarder judgment—persisted to the last, and that so strenuously, that even on the third reading of the bill, Lord Cottenham insisted on having

Lord Aberdeen's bill is declaratory of the law, and the judges who gave the Auchterarder decision, affirm that it declares a different law from that on which they gave judgment.

Lords Cottenham and Brougham in consequence, oppose the bill.

CHAP. XV. his amendment against it put from the chair, in order that his objections to the bill might appear in the minutes of the house. Notwithstanding of this opposition, the house of lords did pass the bill, and, by so doing, placed themselves in the position of having, in their judicial capacity, declared one thing to be the law, and in their legislative capacity declared another thing to be the law; and this was the changeful and self-contradictory oracle on whose authority a great national religious establishment was overthrown! It is, indeed, quite true, that Lord Aberdeen's legislative interpretation of the law—though different from Lord Cottenham's judicial interpretation of it—was still stringent and narrow enough to exclude the principle of non-intrusion. But this does not alter the fact, that the veto-law of the church was, in 1839, pronounced to be illegal by the house of lords, upon a view of the law which the same house of lords, in 1843, declared to have been erroneous.

The House of Lords pass the bill, and thus make their *legislative* contradict their *judicial* testimony as to what the law is.

In addition to this bill of Lord Aberdeen, in reference to the settlement of ministers, another was brought forward by Sir James Graham, in regard to the subdivision of parishes and the endowment of *quoad sacra* churches. The former bill was passed in the course of the session of 1843; the latter during the session of 1844. Sir James Graham's bill did nothing whatever to restore the powers which the Stewarton decision had taken from the establishment. It left the *quoad sacra* church ministers excluded from the ecclesiastical courts,—their sessions broken up,—and their right to take any part in the government of the church utterly extinguished. Without an endow-

Sir James Graham's *quoad sacra* Church and endowment bill.

ment of £120 a year, and the consent of a majority of the heritors of the parish, and of the court of tiends, the establishment cannot now set up, even in the most destitute district of the land, a full provision of the means of grace, according to the institution of Christ, for a single additional congregation. In a practical point of view this state of things may be of little moment, as the existing supply of churches in the establishment is greatly more than equal to the demand. When, however, the matter is considered in the light of the responsibilities, duties and prerogatives of a church of Christ, it assumes a very different character. Like the bill of Lord Aberdeen, that of Sir James Graham confirms and ratifies, in matters the most purely ecclesiastical and spiritual, the supremacy of the courts of law; and binds round the neck of the establishment those galling and degrading fetters which the church of Scotland, on the day of the disruption, indignantly cast away.

State in which it leaves the Establishment as to important spiritual rights and duties.

The two bills rivet the fetters of civil supremacy around the Establishment's neck.

In turning from the assembly of the bond establishment, it now only remains to the reader to take a parting glance at the assembly of the free church of Scotland. Its sittings, which commenced on Thursday the 18th, were concluded on Tuesday the 30th of May; and during that period all the necessary measures for organizing the adherents, developing the resources, maturing the plans, and conducting the affairs of the disestablished church, were arranged with a promptitude, an energy, and a unanimity, that filled the friends of this great movement with confidence, gratitude, and joy. Of the many interesting scenes that were witnessed in this assembly, none was more

The Free Assembly.

CHAP. XV.

The deed of demission.

impressive or memorable than that of the signing of the deed of demission. On Tuesday the 23d of May, this deed, prepared according to the strictest forms of law, was laid on the table of the house. After repeating the substance of the protest, it proceeded thus:—"And further, the said ministers and elders, in this their general assembly convened, while they refuse to acknowledge the supreme ecclesiastical judicatory, established by law in Scotland, and now holding its sittings in Edinburgh, to be a free assembly of the church of Scotland, or a lawful assembly of the said church, according to the true and original constitution thereof, and disclaims its authority as to matters spiritual, yet in respect of the recognition given to it by the state, and the powers in consequence of such recognition belonging to it with reference to the temporalities of the establishment, and the rights derived thereto from the state, hereby appoint a duplicate of this act, to be subscribed by their moderator, and also by the several ministers, members of this assembly, now present in Edinburgh, for their individual interests, to be transmitted to the clerk of the said ecclesiastical judicatory, by law established, for the purpose of certiorating them, that the benefices held by such of the said ministers, or others, adhering to this assembly, as were incumbents of benefices, are now vacant, and the said parties consent that the said benefices shall be dealt with as such. And they authorize the Rev. Thomas Pitcairn, and the Rev. Patrick Clason, conjunct clerks to this their general assembly, to subscribe the joinings of the several sheets hereof; and they consent to the registration

hereof in the books of councils and session, or others competent therein to remain for preservation," &c., —all duly attested in terms of law. CHAP. XV.

One after another, as their names were called, the protesting ministers advanced to the table, and affixed, with an unfaltering hand, their names to a deed by which they renounced their earthly all. The first signature after the name of the illustrious moderator, was that of the venerable Dr. Muirhead of Cramond, who was ordained in the year 1788. From Robertsonian moderatism to Chalmers and the Free church,—his ministry had reached from the one to the other,—and the youngest of his brethren did not march forth from the dishonoured and enslaved establishment more resolutely than he. Onwards, from noon till late in the evening, did the signing of this document incessantly proceed. Including a few who afterwards gave in their adherence to this deed, 474 ministers completed, by means of this solemn legal instrument, their separation from the establishment. "I was yesterday present," said an onlooker,* writing to the moderator on the following day, "at the stirring and moving scene, when above four hundred of the best ministers in the land cheerfully came forward to sacrifice all that was dear to them in this world, on the altar of conscience and duty. I will say nothing of the sentiments of sympathy, mingled with admiration, with which I witnessed this noble stand for Christian principle,—not counting the cost,—and beyond all Greek, beyond all Roman fame, but shall

The signing of the deed of demission.

The number who signed.

Testimony of an onlooker upon the subject.

* James Ewing, Esq. of Strathleven.

CHAP. XV. at once beg you to throw my mite into the treasury, which, I trust, the country will rush forward to supply, and to subscribe my name for two thousand pounds, to be applied in such manner as you may yourself deem proper, and the money shall be at your command whenever it is required."

The liberality of the members of the Church.

Even before the disruption had yet taken place, the generous sentiment, thus seasonably and nobly expressed, had been already extensively and powerfully at work. Though statesmen in London, and politicians nearer home, continued to the last hour incredulous of the approaching event; there were thousands, and tens of thousands, throughout the parishes of Scotland upon whom it did not come unawares. Before the 18th of May had yet arrived, 687 separate associations had been formed for the purpose of raising funds and making other necessary preparations to meet the expected wants of the church. On the first business-day of the Free Assembly it was the privilege of Dr. Chalmers—when giving in the report of the committee which had guided these precursory movements—to make this cheering announcement, that "as the result of about two months' appliance to the country, there has been tendered an aggregate sum of £232,347 for the support of the Free church of Scotland." The data, it is true, on which this statement was made, owing to the unavoidably imperfect state of the returns, were partly conjectural. The calculations, however, were amply justified by the facts,—for when the twelvemonths which these calculations embraced had run their course, it was found that the first year's income

The sum announced by Dr. Chalmers as already subscribed.

of the Free church, instead of stopping at the amount named by Dr. Chalmers, had swelled up to the truly munificent sum of £366,719 14s. 3d. 'This cannot last,'—was the confident and not unnatural prediction of those to whom, only a year before, it had seemed too much to believe that any disruption would ever take place. It has since, however, been abundantly proved, that the sources of supply had not been drained by the first demand. What then appeared, to men of little faith, to be the produce of one exhausting and convulsive effort, has been repeated again, and again, and again,—till the funds of the Free church have begun to assume not a little of the regularity and steadiness of a national revenue. During the five years which elapsed between the assembly of 1843 and the assembly of 1848, the aggregate sum raised for the church's home and foreign wants was £1,590,064 3s. 4¼d.; being an average of fully £300,000 *per annum*.

His calculations exceeded by the result.

Amount raised for the purposes of the Free Church, between the date of the Disruption and the Assembly of 1848.

These amazing results have not only shamed the shallow and confident scepticism of the church's worldly-wise opponents,—but they have rebuked not a few of her timid and too distrustful friends. What, said many such, is to become of our schools and our missionaries when the endowments of the establishment are left behind, and when all that can be provided, will be greatly too little to maintain divine ordinances among our own people! And yet the church did not shrink from any part of the work which her Lord and Master had laid to her hand. She knew of all her missionaries within reach, that they had made up their minds to cast in their lot with the disinherited church of their fathers,

CHAP. XV.

Adherence of the missionaries.

—and she felt the strongest assurance, that those of them who were far away in heathen lands had but to learn what had been done in Scotland, in order to declare, as they did subsequently declare, with one voice, upon her side. Already, therefore, she regarded them as her own; and though spoiled and stripped bare herself of her ancient national provision, and cast out like a houseless wanderer upon her native hills, she remembered Him whose name is Jehovah-jireh;—she knew the Lord would provide. "When I sent you without purse, and scrip, and shoes," said Christ to His disciples of old, "lacked ye anything? And they said nothing."* He who so spake is the same yesterday, to-day, and for ever,—and wherefore should His servants fear! The silver and the gold are His,—the cattle also on a thousand hills. "I cannot help," said Mr. Dunlop when submitting to the Free assembly, in 1843, his usual financial report of the church's mission and education schemes, —"referring to the state of matters ten years ago. Then there were only two or three schemes in operation, and the whole sum collected amounted to £4857. And without either including the legacies I have stated as bequeathed to these schemes, or the sum contributed to defray the debt of the church, or the sum collected under the queen's letter, they had this year bordering on £26,000." They *had* that sum, —but every shilling of it was either already expended or left behind in the coffers of the forsaken establishment. That *had* been their missionary revenue in

State of the mission funds at the time of the Disruption.

* Luke xxii. 35.

the year gone by,—but what revenue were they to have in the year to come! A comparison exactly corresponding to that which was instituted by Mr. Dunlop in 1843 cannot as yet be made. His measuring line could reach through the entire decade which preceded the disruption: ours can extend but through the five years which immediately succeeded it. But even within that more contracted period, how cheering is the fact that the sum raised for the missionary and educational objects of the church, which, during the year immediately preceding the assembly of 1843, had amounted to £26,000, had increased in the year immediately preceding the assembly of 1848 to about £60,000. It was in the midst of the first gushing and grateful flow of these offerings, that Dr. Chalmers beautifully said, in his closing address to the assembly of 1843—"The liberalities which have been poured forth on our great enterprize, even by the humblest of our artizans and labourers, and the grateful responses which these have called back again,—the words of kindness and encouragement which have been sent from all places of the land to bear us up on the field of conflict, and our thankful sense of the friendship which prompted them,—the amalgamating power of a common object and of a common feeling to cement and knit together the hearts of men,—the very emulation to love and to good works which has given birth to so many associations, each striving to outrun the other in their generous contributions for the support of what is deemed by all to be a noble cause,—even the working of these associations in which the rich and the poor are often made to change places, the

Increase of the mission funds.

Closing address of Dr. Chalmers to the Assembly of 1843.

CHAP. XV. former visiting the homes of the latter, and receiving the offerings of christian benevolence at their hands,—the multiplied occasions of intercourse thus opened up between those parties in the commonwealth which before stood at the greatest distance, and were wont to look with the indifference, if not the coldness of aliens, on each other,—these are so many sweetening and exalting influences which serve to foster the sympathy of a felt brotherhood, among thousands and tens of thousands of our countrymen, and will mightily tend, we are persuaded, to elevate and humanize the society of Scotland." Sustained and strengthened by these, the affectionate sympathies of her own people, and by the blessing of her great King and Head, the Free church has already gone up and possessed much of the land. The 474 ministers who left the establishment in 1843, are now increased to 700. These ministers are distributed over a nearly equal number of settled pastoral charges,—besides which, there are upwards of a hundred other congregations served by licentiates of the church, and by such other suitable christian agencies as the church can supply. Her ministrations extend to every district, and nearly to every parish in the land, from the Solway to the Shetland Isles, and to the furthest Hebrides, — and there are whole islands and even large counties in Scotland, where hardly any other church is named or known. From seven to eight hundred churches have sprung up to accommodate her congregations. Manses, or parsonages for her ministers, are fast multiplying beside them. Her schools already equal, if they do not exceed, in

Progress of the Free Church in the number of her ministers.

Of her Churches and Manses and Schools.

respect of the number of children educated within them, the entire body of the parish schools of Scotland. She has not fewer than two hundred and fifty students of theology training for her ministry,—and in her normal schools she is making a corresponding provision to train teachers for the young. Nor are her efforts confined within her native fields. Her missionaries are found following after the lost sheep of the house of Israel in various lands, and showing light to the Gentiles in dark places of the earth which are full of the habitations of cruelty: while ministers, professors, and schoolmasters, sent forth under her auspices, may be found in almost every colony of the British crown.

Of her students of theology,—and teachers training for her schools.

It is yet too soon to write the history of the disestablished church of Scotland; the author has neither time nor room even to sketch it here. The causes, and not the consequences of the disruption, constitute the proper subject of his present work. When those issues which divine providence had wrapped up in the once little seed out of which the disruption grew, shall have had time and scope to come forth into fuller development,—and when their bearing shall be seen on those movements, which in other churches seem to be already heaving towards the birth of events, in which all christendom may come ere long to share,—there will be much to record which it will concern the wise both to read and learn. Meanwhile, amid the busy actors and hurrying incidents that now crowd the sounding stage both of the ecclesiastical and of the political world, let it be the high and constant aim of the Free Church of Scotland to make full proof of her ministry,—to do the

Too soon, as yet, to write the history of the disestablished Church.

The duty and the safety of the Free Church of Scotland.

CHAP. XV. work of an evangelist,—to hold fast her testimony,—and then shall no man be able to take her crown. Living to Him,—by Whom she lives,—the legend written from of old upon her shining shield, shall still be verified:—NEC TAMEN CONSUMEBATUR,—the bush, though burning, shall not be consumed.

APPENDIX.

No. I.

CLAIM, DECLARATION, AND PROTEST, BY THE GENERAL ASSEMBLY OF THE CHURCH OF SCOTLAND.

The General Assembly of the Church of Scotland, taking into consideration the solemn circumstances in which, in the inscrutable providence of God, this Church is now placed, and that, notwithstanding the securities for the government thereof by general assemblies, synods, presbyteries, and kirk-sessions, and for the liberties, government, jurisdiction, discipline, rights, and privileges of the same, provided by the statutes of the realm, by the constitution of this country, as unalterably settled by the Treaty of Union, and by the oath "inviolably to maintain and preserve the same," required to be taken by each sovereign at accession, as a condition precedent to the exercise of the royal authority—which securities might well seem, and had long been thought, to place the said liberties, government, jurisdiction, discipline, rights, and privileges of this Church beyond the reach of danger or invasion—these have been of late assailed by the very courts to which the Church was authorized to look for assistance and protection, to an extent that threatens their entire subversion, with all the grievous calamities to this Church and nation which would inevitably flow therefrom, did, and hereby do, solemnly and in reliance on the grace and power of the Most High, resolve and agree on the following Claim, Declaration, and Protest: That is to say:—

WHEREAS it is an essential doctrine of this Church, and a fundamental principle in its constitution, as set forth in the Confession of Faith thereof, in accordance with the word and law of the most holy God, that "there is no other Head of the Church but the Lord Jesus Christ;"* and that while "God, the supreme Lord and King of all the world, hath ordained civil magistrates to be, under him, over the people, for his own glory and the public good, and to this end, hath armed them with the power of the sword;"† and while "it is the duty of people to pray for magistrates, to honour their persons, to pay them tribute and other dues, to obey their lawful commands, and to be subject to their authority for conscience sake,"‡ "from which ecclesiastical persons are not exempted;" and while the magistrate hath authority, and it is his duty, in the exercise of that power which alone is committed to him, namely, the "power of the sword," or civil rule, as distinct from the "power of the keys" or spiritual authority, expressly denied to him, to take order for the preservation of purity, peace, and unity in the Church, yet "The Lord Jesus, as King and Head of his Church, hath therein appointed a government in the hand of Church officers distinct from the civil magistrate:"§ which government is ministerial, not lordly, and to be exercised in consonance with the laws of Christ, and with the liberties of his people:

* Ch. 25, sec. 6. † Ch. 23, sec. 1. ‡ Chap. 23, sec. 4. § Ch. 30, sec. 1.

And whereas, according to the said Confession, and to the other standards of the Church, and agreeably to the Word of God, this government of the Church, thus appointed by the Lord Jesus, in the hand of Church officers, distinct from the civil magistrate, or supreme power of the State, and flowing directly from the Head of the Church to the office-bearers thereof, to the exclusion of the civil magistrate, comprehends, as the objects of it, the preaching of the Word, administration of the sacraments, correction of manners, the admission of the office-bearers of the Church to their offices, their suspension and deprivation therefrom, the infliction and removal of Church censures, and, generally, the whole "power of the keys," which, by the said Confession, is declared, in conformity with Scripture, to have been "committed"* to Church officers, and which, as well as the preaching of the Word, and the administration of the sacraments, it is likewise thereby declared, that "the civil magistrate may not assume to himself:"†

And whereas this jurisdiction and government, since it regards only spiritual condition, rights, and privileges, doth not interfere with the jurisdiction of secular tribunals, whose determinations as to all temporalities conferred by the State upon the Church, and as to all civil consequences attached by law to the decisions of Church courts in matters spiritual, this Church hath ever admitted, and doth admit, to be exclusive and ultimate, as she hath ever given and inculcated implicit obedience thereto:

And whereas the above mentioned essential doctrine and fundamental principle in the constitution of the Church, and the government and exclusive jurisdiction flowing therefrom, founded on God's Word, and set forth in the Confession of Faith and other standards of this Church, have been, by diverse and repeated acts of Parliament, recognised, ratified, and confirmed;—inasmuch as,—

First, The said Confession itself, containing the doctrine and principles above set forth, was "ratified and established, and voted and approven as the public and avowed Confession of this Church," by the fifth act‡ of the second session of the first Parliament of King William and Queen Mary, entituled, "Act ratifying the Confession of Faith, and settling Presbyterian Church Government:"—to which act the said Confession is annexed, and with it incorporated in the statute law of this kingdom.

Second, By an act§ passed in the first Parliament of King James VI., entituled, "Of admission of ministers: of laic patronages," it is enacted and declared, "That the examination and admission of ministers within this realm be only in the power of the Kirk, now openly and publicly professed within the same;" and, while the "presentation of laic patronages" was thereby "reserved to the just and ancient patrons," it was provided, that if the presentee of a patron should be refused to be admitted by the inferior ecclesiastical authorities, it should be lawful for the patron "to appeal to the General Assembly of the whole realm, by whom the cause being decided, shall take end as they decern and declare."

Third, By an act‖ passed in the same first Parliament, and renewed in the sixth Parliament of the said King James VI., entituled, "Anent the jurisdiction of the Kirk," the said Kirk is declared to have jurisdiction "in the preaching of the true Word of Jesus Christ, correction of manners, and administration of the holy sacraments;"¶ and it is further declared, "that there be *no other jurisdiction ecclesiastical* acknowledged

* Ch. 30, sec. 2. † Ch. 23, sec. 3. ‡ 1690, c. 5. § 1567, c. 7. ‖ 1567, c. 12, (fol. edit.) ¶ 1579, c. 9.

within this realm, "other than that *which is and shall be within the same Kirk, or that flows therefrom, concerning the premises;*" which act, and that last before mentioned, were ratified and approven by another act* passed in the year 1581, entituled, "Ratification of the liberty of the true Kirk of God and religion, with confirmation of the laws and acts made to that effect of before;" which other act, and all the separate acts therein recited, were again revived, ratified, and confirmed, by an act† of the twelfth Parliament of the said King James VI., entituled, "Ratification of the liberty of the true Kirk," &c.; which said act (having been repealed in 1662) was revived, renewed, and confirmed,‡ by the before mentioned statute of King William and Queen Mary.

Fourth, The said act of the twelfth Parliament of King James VI. ratified and approved the general assemblies, provincial synods, presbyteries, and kirk-sessions, "appointed by the Kirk," and "the whole jurisdiction and discipline of the same Kirk;"§ cassed and annulled "all and whatsoever acts, laws, and statutes, made at any time before the day and date thereof, against the liberty of the true Kirk, jurisdiction and discipline thereof, as the same is used and exercised within this realm;" appointed presentations to benefices to be directed to presbyteries, "with full power to give collation thereupon, and to put order to all matters and causes ecclesiastical within their bounds, according to the discipline of the Kirk, providing the foresaid presbyteries be bound and astricted to receive and admit whatsoever qualified minister, presented by his majesty or laic patrons," (the effect of which proviso and of the reservation in the act‖ of the first Parliament of King James VI., above mentioned, is hereinafter more fully adverted to;) and farther declared that the jurisdiction of the Sovereign and his courts, as set forth in a previous act¶ to extend over all persons his subjects, and "in all matters," should "noways be prejudicial nor derogate any thing to the privilege that *God has given* to the spiritual office-bearers of the Kirk, concerning *heads of religion, matters of heresy, excommunication, collation, or deprivation of ministers, or any such like essential censures*, grounded and having warrant of the Word of God; by which enactment, declaration, and acknowledgment, the State recognised and established as a fundamental principle of the constitution of the kingdom, that the jurisdiction of the Church in these matters was "given by God" to the office-bearers thereof, and was exclusive and free from coercion by any tribunals holding power or authority from the State or supreme civil magistrate.

Fifth, The Parliament holden by King Charles II., immediately on his restoration to the throne, while it repealed the above recited act** of the twelfth Parliament of King James and other relative acts,†† at the same time acknowledged the supreme and exclusive nature of the jurisdiction thereby recognised to be in the Church, describing the said acts, as acts "by which the *sole and only* power and jurisdiction within this Church *doth stand in the Church*, and in the general, provincial, and presbyterial assemblies, and kirk-sessions," and as acts "which may be interpreted to have given any Church power, jurisdiction, or government to the office-bearers of the Church, their respective meetings, other than that which acknowledgeth a dependence upon, and subordination to the sovereign power of the king, as supreme."

Sixth, The aforesaid act‡‡ of King William and Queen Mary,—on the narrative that their majesties and the estates of Parliament conceived "it to be their bounden duty, after the great deliverance that God hath lately wrought for

* 1581, c. 99. † 1592, c. 116. ‡ 1690, c. 5. § 1592, c. 116. ‖ 1567, c. 7.
¶ 1584, c. 129. ** 1662, c. 1. †† 1592, c. 116. ‡‡ 1690, c. 5.

this Church and kingdom *in the first place*, to settle and secure therein the true Protestant religion, according to the truth of God's Word, as it hath of a long time been professed within this land; as also the government of Christ's Church within this nation, agreeable to the Word of God, and most conducive to true piety and godliness, and the establishing of peace and tranquillity within this realm,"—besides ratifying and establishing as aforesaid the Confession of Faith, did also "establish, ratify, and confirm the Presbyterian Church government and discipline; that is to say, *the government of the Church by kirk sessions, presbyteries, provincial synods, and general assemblies*, ratified and established by the 116 act James VI., parliament 12, anno 1592, entituled, 'Ratification of the liberty of the true Kirk,' &c., and thereafter received by the general consent of this nation, *to be the only government of Christ's Church within this kingdom;*" and revived and confirmed the said act* of King James VI.

And whereas, not only was the exclusive and ultimate jurisdiction of the Church courts, in the government of the Church, and especially in the particular matters, spiritual and ecclesiastical, above mentioned, recognised, ratified and confirmed,—thus necessarily implying the denial of power on the part of any secular tribunal, holding its authority from the sovereign, to review the sentences of the Church courts in regard to such matters, or coerce them in the exercise of such jurisdiction;—but all such power, and all claim on the part of the sovereign to be considered supreme governor over the subjects of this kingdom of Scotland, in causes *ecclesiastical and spiritual*, as he is in causes *civil and temporal*, was, after a long continued struggle, finally and *expressly repudiated and cast out of the constitution* of Scotland, *as inconsistent with the Presbyterian Church government*, established at the Revolution, and thereafter unalterably secured by the Treaty of Union with England; by the constitution of which latter kingdom, differing in this respect from that of Scotland, the sovereign is recognised to be supreme governor, "*as well* in all *spiritual and ecclesiastical* things and causes as *temporal*." Thus:—

First, The General Assembly having, in the year 1582, proceeded to inflict the censures of the Church upon Robert Montgomery, minister of Stirling, for seeking to force himself, under a presentation from the king, into the archbishopric of Glasgow, contrary to an act of the General Assembly discharging the office of Prelatic bishop in the Church, and for appealing to the secular tribunals against the infliction of Church censures by the Church courts, and seeking to have these suspended and interdicted,—and having deposed and excommunicated him, notwithstanding of an interdict pronounced by the privy council of Scotland, the then supreme secular court of the kingdom,—and having at the same time declared it to be part of the subsisting discipline of the Church, that any ministers thereof who "should seek any way by the civil power to exempt and withdraw themselves from the jurisdiction of the Kirk, or procure, obtain or use any letters or charges, &c., or to make any appellation from the General Assembly to stop the discipline or order of the ecclesiastical policy or jurisdiction granted by God's Word to the office-bearers within the said Kirk," were liable to the highest censures of the Church;—although their sentence of excommunication was declared by one of the acts of Parliament of the year 1584, commonly called the "Black Acts," to be void, yet ultimately the king and privy council abandoned their interference, Montgomery submitted to the Church courts, and the statute† of the twelfth Parliament of King James VI., already mentioned, cassed and

* 1592, c. 116. † 1592, c. 116.

annulled "all and whatever acts, laws, and statutes made at any time before the day and date thereof, against the liberty of the true Kirk, jurisdiction and discipline thereof, *as the same is used and exercised within this realme;*" since which enactment no similar interference with the discipline and censures of the Church was ever attempted till the year 1841.

Second, It having been declared by another of the "Black Acts" aforesaid,* entituled, "An act confirming the king's majesty's royal power over all the estates and subjects within this realm," that "his highness, his heirs and successors, by themselves and their councils, are, and in time to come, shall be judges competent to all persons his highness' subjects, of whatsoever estate, degree, function, or condition that ever they be of, spiritual or temporal, *in all matters* wherein they or any of them shall be apprehended, summoned, or charged to answer to such things as shall be inquired of them by our sovereign lord and his council," it was, by the said before mentioned act of the twelfth Parliament of King James VI., declared that the said act† last above mentioned "shall noways be prejudicial, nor derogate any thing to the privilege that God has given to the spiritual office-bearers of the Kirk, concerning heads of religion, matters of heresy, excommunication, collation, or deprivation of ministers, or any such like essential censures, specially grounded, and having warrant of the Word of God"

Third, It having been enacted,‡ on the establishment of Prelacy in 1612, that every minister, at his admission, should swear obedience to the sovereign, as "the only lawful supreme governor of this realm, as well in matters spiritual and ecclesiastical as in things temporal," the enactment to this effect was repealed on the restoration of Presbyterian Church government.§

Fourth, A like acknowledgment, that the sovereign was "the only supreme governor of this kingdom over all persons, *and in all causes*," having been, on the second establishment of Prelacy,‖ consequent on the restoration of King Charles II., required as part of the ordinary oath of allegiance, and having been also inserted into the "Test Oath,"¶ so tyrannically attempted to be forced on the subjects of this realm during the reigns of Charles II. and James II.; and the same doctrine of the king's supremacy in all causes, spiritual and ecclesiastical as well as temporal and civil, having farther been separately and specially declared by the first act** of the second Parliament of the said King Charles II., entituled, "Act asserting his majesty's supremacy over all persons and in all causes ecclesiastical," whereby it was "enacted, asserted, and declared, that his majesty hath the supreme authority and supremacy over all persons, and in all causes ecclesiastical, within this kingdom," the Estates of this kingdom,†† at the era of the Revolution, did set forth, as the second article of the "Grievances" of which they demanded redress under their "Claim of Right," "That the first act of Parliament 1669 is inconsistent with the establishment of the Church government now desired, and ought to be abrogated."

Fifth, In compliance with this claim, an act‡‡ was immediately thereafter passed, of which the tenor follows: "Our sovereign lord and lady the king and queen's majesties, taking into their consideration, that by the second article of the Grievances presented to their majesties by the estates of this kingdom, it is declared that the first act of the second Parliament of King Charles the Second, entituled, 'Act asserting his majesty's supremacy over all persons and in all causes ecclesiastical,' is inconsistent with the establishment of the Church government now desired, and ought to be abrogate:

* 1584, c. 129. † 1592, c. 116. ‡ 1612, c. 1. § 140, c. 7. ‖ 1661, c. 11.
¶ 1681, c. 6. ** 1669, c. 9. †† Estates. 1689, c. 18. ‡‡ 1690, c. 1.

Therefore their majesties, with advice and consent of the estates of Parliament, do hereby abrogate, rescind, and annul the foresaid act, and declares the same in the whole heads, articles, and clauses thereof, to be of no force or effect in all time coming." In accordance also therewith, the oath of allegiance above mentioned, requiring an acknowledgment of the king's sovereignty "in *all* causes," was done away,* and that substituted which is now in use, simply requiring a promise to be "faithful, and bear true allegiance" to the sovereign; and all preceding laws and acts of Parliament were rescinded, "in so far as they impose any other oaths of allegiance and supremacy, declarations and tests, excepting the oath *de fideli.*" By the which enactments, any claim on the part of the sovereigns of Scotland to be supreme rulers in spiritual and ecclesiastical as well as in temporal and civil causes, or to possess any power, by themselves or their judges holding commission from them, to exercise jurisdiction in matters or causes spiritual and ecclesiastical, was repudiated and excluded from the constitution, as inconsistent with the Presbyterian Church government then established, and secured under the statutes then and subsequently passed, "to continue without any alteration, to the people of this land, in all succeeding generations."†

And whereas diverse civil rights and privileges were, by various statutes of the Parliament of Scotland, prior to the Union with England, secured to this Church, and certain civil consequences attached to the sentences of the courts thereof, which were farther directed to be aided and made effectual by all magistrates, judges, and officers of the law; and in particular:—

It was, by an act‡ of the twelfth Parliament of King James VI., enacted, "that all and whatsoever sentences of deprivation, either pronounced already, or that happens to be pronounced hereafter by any presbytery, synodal, or general assemblies, against any parson or vicar within their jurisdiction, provided since his highness' coronation, is, and shall be repute in all judgments, a just cause to seclude the person before provided, and then deprived from all profits, commodities, rents, and duties of the said parsonage and vicarage, or benefice of cure; and that, either by way of action, exception, or reply; and that the said sentence of deprivation shall be a sufficient cause to make the said benefice to vaike thereby:"

As also, by the fifth act§ of the first Parliament of King William and Queen Mary, it was enacted, "that whatsoever minister being convened before the said general meeting, and representatives of the Presbyterian ministers or elders, or the visitors to be appointed by them, shall either prove contumacious for not appearing, or be found guilty, and shall be therefore censured, whether by suspension or deposition, they shall, *ipso facto*, be suspended from or deprived of their stipends and benefices:"

As also, by an act‖ passed in the fourth session of the first Parliament of King William and Queen Mary, entituled, an "Act for settling the peace and quiet of the Church," it was provided, that no minister should be admitted, unless he owned the Presbyterian Church government, as settled by the last recited act, "to be the only government of this Church;" "and that he will submit thereto, and concur therewith, and never endeavour, directly or indirectly, the prejudice or subversion thereof;" and it was statute or ordained, "that the lords of their majesty's privy council, and all other magistrates, judges, and officers of justice, give all due assistance for making the sentences and censures of the Church, and judicatories thereof, to be obeyed, or otherwise effectual, as accords:"

* 1689, c. 2. † 1706, c. 6. ‡ 1592, c. 117. § 1690, c. 5. ‖ 1693, c. 22.

As also, by an act* passed in the fifth session of the foresaid Parliament, entituled an "Act against intruding into churches without a legal call and admission thereto," on the narrative, "that ministers and preachers, their intruding themselves into vacant churches, possessing of manses and benefices, and exercising any part of the ministerial function in parishes, without a legal call and admission to the said churches, is an high contempt of the law, and of a dangerous consequence, tending to perpetual schism;" such intrusion, without an orderly call from the heritors and elders—the right of presentation by patrons being at this time abolished,—and "legal admission from the presbytery," was prohibited under certain penalties; and the lords of the privy council were recommended to remove all who had so intruded, and "to take some effectual course for stopping and hindering those ministers who are, or shall be hereafter deposed by the judicatories of the present established Church, from preaching or exercising any act of their ministerial function which" (the said statute declares) "they cannot do after they are deposed, without a high contempt of the authority of the Church, and of the laws of the kingdom establishing the same."

And whereas, at the union between the two kingdoms, the Parliament of Scotland, being determined that the "true Protestant religion," as then professed, "with the worship, discipline and government of this Church, should be effectually and unalterably secured," did, in their act† appointing commissioners to treat with commissioners from the Parliament of England, as to an union of the kingdoms, provide, "That the said commissioners shall *not* treat of or concerning any alteration of the worship, discipline and government of the Church of this kingdom, as now by law established;" and did, by another act,‡ commonly called the Act of Security, and entituled, "Act for securing the Protestant religion and Presbyterian Church government," "establish and confirm the said true Protestant religion, and the worship, discipline and government of this Church, to continue without any alteration to the people of this land in all succeeding generations;" and did "for ever confirm the fifth act§ of the first Parliament of King William and Queen Mary, entituled, 'Act ratifying the Confession of Faith, and settling Presbyterian Church government,' *and the whole other acts of Parliament relating thereto;*" and did "expressly provide and declare, That the foresaid true Protestant religion, contained in the above mentioned Confession of Faith, with the form and purity of worship presently in use within this Church, and its Presbyterian Church government and discipline,—that is to say, the government of the Church by kirk-sessions, presbyteries, provincial synods, and general assemblies, all established by the foresaid acts of Parliament, pursuant to the Claim of Right, shall remain and continue unalterable; and that the said Presbyterian government shall be the only government of the Church within the kingdom of Scotland;" and farther, "for the greater security of the same," did, *inter alia*, enact, "That after the decease of her present majesty, the sovereign succeeding to her in the royal government of the kingdom of Great Britain, shall, in all time coming, at his or her succession to the Crown, swear and subscribe, That they shall inviolably maintain and preserve the foresaid settlement of the true Protestant religion, with the government, worship, discipline, right and privileges of this Church, as above established by the laws of this kingdom, in prosecution of the Claim of Right;" which said Act of Security, "with the establishment therein contained," it was specially thereby enacted, "should be held and observed in all time coming, as a fundamental

* 1695, c. 22. † 1705, c. 4. ‡ 1706, c. 6. § 1690, c. 5.

and essential condition of any treaty or union to be concluded betwixt the two kingdoms, *without any alteration thereof, or derogation thereto, in any sort for ever*:" It being farther thereby provided, that "the said act and settlement therein contained shall be insert and repeated in any act of Parliament that shall pass, for agreeing and concluding the foresaid treaty or union betwixt the two kingdoms; and that the same shall be therein expressly declared to be a fundamental and essential condition of the said treaty or union in all time coming." In terms of which enactment, this Act of Security was inserted in the Treaty of Union between the two kingdoms, as a fundamental condition thereof, and was also inserted in the act* of the Parliament of Scotland ratifying and approving of the said Treaty, and likewise in the corresponding act† of the Parliament of England, entituled, "An act for a union of the two kingdoms of England and Scotland:"

And whereas, at the date of the said Treaty of Union, the right of patrons to present to churches stood abolished by statute, after the following manner, viz.: By the act‡ of King William and Queen Mary, herein before mentioned, the act§ of James VI., also herein before mentioned, then standing totally repealed, was only revived, subject to the express exception of "that part of it relating to patronages," which consequently remained repealed and unrestored, and "which," the act 1690, c. 5, farther bore, "is hereafter to be taken into consideration." The part of the said act thus left repealed and unrevived, was the provision, that presbyteries "be bound and astricted to receive whatsoever qualified minister presented by his majesty or laic patrons,"—a provision which, while it subsisted, was held to leave the Church free to proceed in the collation of ministers "according to the discipline of the Kirk;" and non-compliance with which implied only a forfeiture of the fruits of the particular benefice, which it did by virtue of the immediately succeeding statute,‖ whereby it was enacted, that "in case the presbytery *refuses* to admit any *qualified* minister presented to them by the patron, it shall be lawful to the patron to retain the whole fruits of the benefice in his own hands." This subject having accordingly been thereafter taken into consideration in the same session of Parliament, was definitely settled by an act,¶ entituled, "Act concerning patronages," whereby the right of presentation by patrons was "annulled and made void," and a right was vested in the heritors and elders of the respective parishes "to *name* and *propose* the person to the whole congregation, to be approven or disapproven by them," the disapprovers giving in their reasons "to the effect the affair may be cognosced upon by the presbytery of the bounds, at whose judgment and by whose determination" (as is declared by the said act), "*the calling and entry* of a particular minister is to be ordered and concluded:"

And whereas the said act last mentioned, formed part of the settlement of the Presbyterian Church government effected at the Revolution, and was one of the "acts relating thereto," and to the statute 1690, c. 5, specially confirmed and secured by the Act of Security and Treaty of Union; yet, notwithstanding thereof, and of the said Treaty, the Parliament of Great Britain, by an act** passed in the 10th of Queen Anne, repealed the said act, "in so far as relates to the presentation of ministers by heritors and others therein mentioned," and restored to patrons the right of presentation, and enacted that presbyteries should be "obliged to receive and admit in the same manner, such

* 1706, c. 7. † 5 Anne, c. 8. ‡ 1690, c. 5. § 1592, c. 116. ‖ 1592, c. 117.
¶ 1690, c. 23. ** 10 Anne, c. 12.

qualified person or persons, minister or ministers, as shall be presented by the respective patrons, as the persons or ministers presented before the making of this act ought to have been admitted :"

And whereas, while this Church protested against the passing of the above mentioned act of Queen Anne, as "contrary to the constitution of the Church, so well secured by the late Treaty of Union, and solemnly ratified by acts of Parliament in both kingdoms," and for more than seventy years thereafter, uninterruptedly sought for its repeal, she at the same time maintained, and practically exercised, without question or challenge from any quarter, the jurisdiction of her courts to determine ultimately and exclusively, under what circumstances they would admit candidates into the office of the holy ministry, or constitute the pastoral relationship between minister and people, and, generally, "to order and conclude the entry of particular ministers :"

And whereas, in particular, this Church required, as necessary to the admission of a minister to the charge of souls, that he should have received a call from the people over whom he was to be appointed, and did not authorize or permit any one so to be admitted till such call had been sustained by the Church courts, and did, before and subsequent to the passing of the said act of Queen Anne, declare it to be a fundamental principle of the Church, as set forth in her authorized standards, and particularly in the Second Book of Discipline,* repeated by act of Assembly in 1638, that no pastor be intruded upon any congregation contrary to the will of the people :

And whereas, in especial, this fundamental principle was, by the 14th act of the General Assembly 1736,† re-declared, and directed to be attended to in the settlement of vacant parishes, but having been, after some time, disregarded in the administration of the Church, it was once more re-declared by the General Assembly 1834,‡ who established certain specific provisions and regulations for carrying it into effect in time to come :

And whereas, by a judgment pronounced by the House of Lords, in 1839,§ it was, for the first time, declared to be illegal to refuse to take on trial, and to reject the presentee of a patron (although a layman, and merely a candidate for admission to the office of the ministry), in consideration of this fundamental principle of the Church, and in respect of the dissent of the congregation; to the authority of which judgment, so far as disposing of civil interests, this Church implicitly bowed, by at once abandoning all claim to the *jus devolutum*,—to the benefice, for any pastor to be settled by her, and to all other civil right or privilege which might otherwise have been competent to the Church or her courts; and anxiously desirous, at the same time, of avoiding collision with the civil courts, she so far suspended the operation of the above-mentioned act of Assembly, as to direct all cases, in which dissents should be lodged by a majority of the congregation, to be reported to the General Assembly, in the hope that a way might be opened up to her for reconciling with the civil rights declared by the House of Lords, adherence to the above-mentioned fundamental principle, which she could not violate or abandon by admitting to the holy office of the ministry, a party not having, in her conscientious judgment, a legitimate call thereto, or by intruding a pastor on a reclaiming congregation contrary to their will; and farther, addressed herself to the Government and the

* Ch. 3, sec. 5. † Act of Assembly, 1736, c. 14. ‡ Act of Assembly. 1834, c. 9.
§ Auchterarder Case, 1839.

Legislature for such an alteration of the law (as for the first time now interpreted), touching the temporalities belonging to the Church (which alone she held the decision of the House of Lords to be capable of affecting or regulating), as might prevent a separation between the cure of souls and the benefice thereto attached :

And whereas, although during the century which elapsed after the passing of the said act of Queen Anne, presbyteries repeatedly rejected the presentees of patrons on grounds undoubtedly *ultra vires* of the presbyteries, as having reference to the title of the patron or the validity of competing presentations, and which were held by the Court of Session to be contrary to law, and admitted others to the pastoral office in the parishes presented to, who had no presentation or legal title to the benefice, the said court, even in such cases, never attempted or pretended to direct or coerce the Church courts, in the exercise of their functions in regard to the collation of ministers or other matters acknowledged by the State to have been conferred on the Church, not by the State, but by God himself. On the contrary, they limited their decrees to the regulation and disposal of the temporalities which were derived from the State, and which, as the proper subjects of "actions civil," were within the province assigned to the Court of Session by the Constitution, refusing to interfere with the peculiar functions and exclusive jurisdiction of the courts of the Church : Thus,—

In the case of Auchtermuchty,* where the presbytery had wrongfully admitted another than the patron's presentee, the court found, "That *the right to a stipend* is a civil right; and *therefore*, that the court have power to cognosce and determine upon the legality of the admission of ministers, *in hunc effectum*, whether the *person admitted* shall have right to the *stipend* or not;" and simply decided, that the patron was entitled to retain the stipend in his own hands.

So also, the same course was followed in the cases of Culross, Lanark, and Forbes;† in reference to one of which (that of Lanark) the government of the country, on behalf of the Crown, in which the patronage was vested, recognized the retention of stipend by the patron, as the only competent remedy for a wrongful refusal to admit his presentee; the Secretary of State having, in a letter to the Lord Advocate of Scotland (January 7, 1752), signified the pleasure of his Majesty, "directing and ordering his lordship to do every thing necessary and competent by law, for asserting and taking benefit in the present case, of the said right and privilege of patrons by the law of Scotland, to retain the fruits of the benefice in their own hands till their presentee be admitted."

So farther, in the before mentioned case of Culross,‡ the court refused, "as incompetent," a bill of advocation presented to them by the patron, for the purpose of staying the admission by the presbytery of another than his presentee.

So likewise, in the case of Dunse,§ the court would not interfere in regard to a conclusion to prohibit the presbytery "to moderate in a call at large or settle any other man," because "that was interfering with the power of ordination or internal policy of the Church, with which the Lords thought they had nothing to do."

* Moncrieff *v.* Maxton, Feb. 15, 1735.

† Cochran *v.* Stoddart, June 26, 1751. Dick *v.* Carmichael, March 2, 1753. Forbes *v.* MacWilliam, February, 1762.

‡ Cochran, November 19, 1748.

§ Hay *v.* Presbytery of Dunse, February 26, 1709.

And so, in the same manner, in the case of Unst,* where the party concluded to have the presbytery ordained to proceed to the presentee's settlement, as well as to have the validity of the presentation and the right to the stipend declared, the court limited their decree to the civil matters of the presentation and stipend.

And whereas, pending the efforts of the Church to accomplish the desired alteration of the law, the Court of Session—a tribunal instituted by special act of Parliament for the specific and limited purpose of "doing and administration of justice in all *civil actions*,"† with judges appointed simply "to sit and decide upon all *actions civil*,"‡—not confining themselves to the determination of "civil actions,"—to the withholding of civil consequences from sentences of the Church courts which, in their judgment, were not warranted by the statutes recognizing the jurisdiction of these courts—to the enforcing of the provision of the Act 1592, c. 117, for retention of the fruits of the benefice in case of wrongful refusal to admit a presentee, or the giving of other civil redress for any civil injury held by them to have been wrongfully sustained in consequence thereof—have, in numerous and repeated instances, stepped beyond the province allotted to them by the constitution, and within which alone their decisions can be held to declare the law, or to have the force of law, deciding not only "actions civil," but "causes spiritual and ecclesiastical"—and that, too, even where these had no connection with the exercise of the right of patronage—and have invaded the jurisdiction, and encroached upon the spiritual privileges, of the courts of this Church, in violation of the constitution of the country, in defiance of the statutes above mentioned, and in contempt of the laws of this kingdom: as, for instance,

By interdicting presbyteries of the Church from admitting to a pastoral charge, § when about to be done irrespective of the civil benefice attached thereto, or even where there was no benefice, no right of patronage, no stipend, no manse or glebe, and no place of worship, or any patrimonial right, connected therewith. ‖

By issuing a decree ¶ requiring and ordaining a Church court to take on trial, and admit to the office of the holy ministry in a particular charge, a probationer or unordained candidate for the ministry, and to intrude him also on the congregation, contrary to the will of the people; both in this and in the cases first mentioned invading the Church's exclusive jurisdiction in the admission of ministers, the preaching of the Word, and administration of sacraments, recognised by statute to have been "given by God" directly to the Church, and to be beyond the limits of the secular jurisdiction.

By prohibiting the communicants** of the Church from intimating their dissent from a call proposed to be given to a candidate for the ministry to become their pastor.

By granting interdict against the establishment of additional ministers to meet the wants of an increasing population, †† as uninterruptedly practised from the Reformation to this day; against constituting a new kirk-session in a parish, to exercise discipline; and against innovating on its existing state, "as regards pastoral superintendence, its kirk-session, and jurisdiction and discipline thereto belonging."

By interdicting the preaching of the Gospel, and administration of ordinances, ‡‡

* Lord Dundas *v.* Presbytery of Shetland, May 15, 1795.

† 1537, c. 36. ‡ 1532, c. 1. § 1st Lethendy Case. ‖ Stewarton Case.

¶ Marnoch Case. ** Daviot Case. †† Stewarton Case. ‡‡ Strathbogie Cases.

throughout a whole district, by any minister of the Church under authority of the Church courts; thus assuming to themselves the regulation of the "preaching of the Word" and "administration of the sacraments," and at the same time invading the privilege, common to all the subjects of the realm, of having freedom to worship God according to their consciences, and under the guidance of the ministers of the communion to which they belong.

By holding the members of inferior Church judicatories liable in damages* for refusing to break their ordination vows and oaths (sworn by them in compliance with the requirements of the statutes of the realm, and, in particular, of the Act of Security embodied in the Treaty of Union), by disobeying and setting at defiance the sentences, in matters spiritual and ecclesiastical, of their superior Church judicatories; to which, by the constitution of the Church and country, they are in such matters subordinate and subject, and which, by their said vows and oaths, they stand pledged to obey.

By interdicting the execution of the sentence of a Church judicatory prohibiting a minister from preaching or administering ordinances within a particular parish,† pending the discussion of a cause in the Church courts as to the validity of his settlement therein.

By interdicting the General Assembly and inferior Church judicatories from inflicting Church censures; as in one case where interdict was granted against the pronouncing of sentence of deposition upon a minister found guilty of theft, by a judgment acquiesced in by himself;‡ in another, where a presbytery was interdicted from proceeding in the trial of a minister accused of fraud and swindling;§ and in a third, where a presbytery was interdicted from proceeding with a libel against a licentiate for drunkenness, obscenity, and profane swearing.‖

By suspending Church censures,¶ inflicted by the Church judicatories in the exercise of discipline (which, by special statute, all "judges and officers of justice" are ordered "to give due assistance" for making "to be obeyed or otherwise effectual"), and so reponing ministers suspended from their office to the power of preaching and administering ordinances; thus assuming to themselves the "power of the keys."

By interdicting the execution of a sentence of deposition from the office of the holy ministry, pronounced by the General Assembly of the Church;** thereby also usurping the "power of the keys," and supporting deposed ministers in the exercise of ministerial functions—which is declared by special statute to be a "high contempt of the authority of the Church, and of the laws of the kingdom establishing the same."

By assuming to judge of the right of individuals elected members of the General Assembly to sit therein,†† and interdicting them from taking their seats; thus interfering with the constitution of the supreme court of the Church, and violating her freedom in the holding of General Assemblies, secured to her by statute.

By, in the greater number of the instances above referred to, requiring the inferior judicatories of the Church to disobey the sentences, in matters spiritual and ecclesiastical, of the superior judicatories, to which, by the constitution in Church and State, they are subordinate and subject, and which, in compliance with the provisions of the statutes of the realm, their members have solemnly sworn to obey; thus subverting "the government of the Church by kirk-sessions,

* 2d Auchterarder Case. † Culsalmond Case. ‡ Cambusnethan Case.
§ Stranraer Case. ‖ 4th Lethendy Case. ¶ 1st and 2d Strathbogie Cases.
** 3d Strathbogie Case. †† 5th Strathbogie Case.

presbyteries, provincial synods, and general assemblies," settled by statute and the Treaty of Union as "the only government of the Church within the kingdom of Scotland."

By all which acts the said Court of Session, apparently not adverting to the oath taken by the Sovereign, from whom they hold their commissions, have exercised powers not conferred upon them by the constitution, but by it excluded from the province of any secular tribunal; have invaded the jurisdiction of the courts of the Church; have subverted its government; have illegally attempted to coerce Church courts in the exercise of their purely spiritual functions; have usurped the "power of the keys"—have wrongfully acclaimed, as the subjects of their civil jurisdiction, to be regulated by their decrees, ordination of laymen to the office of the holy ministry, admission to the cure of souls, Church censures, the preaching of the Word, and the administration of the sacraments; and have employed the means intrusted to them for enforcing submission to their lawful authority in compelling submission to that which they have usurped—in opposition to the doctrines of God's Word set forth in the Confession of Faith, as ratified by statute—in violation of the constitution—in breach of the Treaty of Union, and in disregard of divers express enactments of the Legislature.

And whereas further encroachments are threatened on the government and discipline of the Church as by law established,* in actions now depending before the said court, in which it is sought to have sentences of deposition from the office of the holy ministry reduced and set aside, and minorities of inferior judicatories authorized to take on trial, and admit to the office of the holy ministry, in disregard of, and in opposition to, the authority of the judicatories of which they are members, and of the superior judicatories to which they are subordinate and subject:

And whereas the government and discipline of Christ's Church cannot be carried on according to his laws and the constitution of his Church, subject to the exercise, by any secular tribunal, of such powers as have been assumed by the said Court of Session:

And whereas this Church, highly valuing, as she has ever done, her connection, on the terms contained in the statutes herein before recited, with the State, and her possession of the temporal benefits thereby secured to her for the advantage of the people, must, nevertheless, even at the risk and hazard of the loss of that connection and of these public benefits—deeply as she would deplore and deprecate such a result for herself and the nation—persevere in maintaining her liberties as a Church of Christ, and in carrying on the government thereof on her own constitutional principles, and must refuse to intrude ministers on her congregations, to obey the unlawful coercion attempted to be enforced against her in the exercise of her spiritual functions and jurisdiction, or to consent that her people be deprived of their rightful liberties:

THEREFORE the General Assembly, while, as above set forth, they fully recognise the absolute jurisdiction of the civil courts in relation to all matters whatsoever of a civil nature, and especially in relation to all the temporalities conferred by the State upon the Church, and the civil consequences attached by law to the decisions, in matters spiritual, of the Church courts, DO, in name and on behalf of this Church, and of the nation and people of Scotland, and under the sanction of the several statutes, and the Treaty of Union herein before

* 4th Strathbogie Case. 3d Auchterarder Case. 3d Lethendy Case.

recited, CLAIM, as of RIGHT, that she shall freely possess and enjoy her liberties, government, discipline, rights, and privileges, according to law, especially for the defence of the spiritual liberties of her people, and that she shall be protected therein from the foresaid unconstitutional and illegal encroachments of the said Court of Session, and her people secured in their Christian and constitutional rights and liberties.

AND they DECLARE that they cannot, in accordance with the Word of God, the authorized and ratified standards of this Church, and the dictates of their consciences, intrude ministers on reclaiming congregations, or carry on the government of Christ's Church, subject to the coercion attempted by the Court of Session as above set forth; and that, at the risk and hazard of suffering the loss of the secular benefits conferred by the State, and the public advantages of an Establishment, they must, as by God's grace they will, refuse so to do; for, highly as they estimate these, they cannot put them in competition with the inalienable liberties of a Church of Christ, which, alike by their duty and allegiance to their Head and King, and by their ordination vows, they are bound to maintain, "notwithstanding of whatsoever trouble or persecution may arise."

AND they PROTEST. that all and whatsoever Acts of the Parliament of Great Britain, passed without the consent of this Church and nation, in alteration of, or derogation to, the aforesaid government, discipline, right, and privileges of this Church (which were not allowed to be treated of by the commissioners for settling the terms of the union between the two kingdoms, but were secured by antecedent stipulation, provided to be inserted, and inserted, in the Treaty of Union, as an unalterable and fundamental condition thereof, and so reserved from the cognizance and power of the federal legislature created by the said Treaty); as also, all and whatsoever sentences of courts in contravention of the same government, discipline, right, and privileges, are, and shall be, in themselves void and null, and of no legal force or effect; and that, while they will accord full submission to all such Acts and sentences, in so far—though in so far only—as these may regard civil rights and privileges, whatever may be their opinion of the justice or legality of the same, their said submission shall not be deemed an acquiescence therein, but that it shall be free to the members of this Church, or their successors, at any time hereafter when there shall be a prospect of obtaining justice, to claim the restitution of all such civil rights and privileges, and temporal benefits and endowments, as for the present they may be compelled to yield up, in order to preserve to their office-bearers the free exercise of the spiritual government and discipline, and to the people the liberties, of which respectively it has been attempted, so contrary to law and justice, to deprive them.

AND, FINALLY, the General Assembly call the Christian people of this kingdom, and all the Churches of the Reformation throughout the world, who hold the great doctrine of the sole Headship of the Lord Jesus over his Church, to witness, that it is for their adherence to that doctrine, as set forth in their Confession of Faith, and ratified by the laws of this kingdom, and for the maintenance by them of the jurisdiction of the office-bearers, and the freedom and privileges of the members of the Church, from that doctrine flowing, that this Church is subjected to hardship, and that the rights so sacredly pledged and secured to her are put in peril; and they especially invite all the office-bearers and members of this Church, who are willing to suffer for their allegiance to their adorable King and Head, to stand by the Church, and by each other, in

defence of the doctrine aforesaid, and of the liberties and privileges, whether of office-bearers or people, which rest upon it; and to unite in supplication to Almighty God, that he would be pleased to turn the hearts of the rulers of this kingdom, to keep unbroken the faith pledged to this Church in former days, by statutes and solemn treaty, and the obligations come under to God himself to preserve and maintain the government and discipline of this Church in accordance with his Word; or otherwise, that he would give strength to this Church —office-bearers and people—to endure resignedly the loss of the temporal benefits of an Establishment, and the personal sufferings and sacrifices to which they may be called, and would also inspire them with zeal and energy to promote the advancement of his Son's kingdom, in whatever condition it may be his will to place them; and that, in his own good time, he would restore to them these benefits, the fruits of the struggles and sufferings of their fathers in times past in the same cause; and thereafter give them grace to employ them more effectually than hitherto they have done for the manifestation of his glory.

No. II.

PROTEST BY COMMISSIONERS TO THE GENERAL ASSEMBLY, READ IN PRESENCE OF THE ROYAL COMMISSIONER, 18TH MAY, 1843.

We, the undersigned ministers and elders, chosen as commissioners to the General Assembly of the Church of Scotland, indicted to meet this day, but precluded from holding the said Assembly by reason of the circumstances hereinafter set forth, in consequence of which a Free Assembly of the Church of Scotland, in accordance with the laws and constitution of the said Church, cannot at this time be holden,—

Considering that the Legislature, by their rejection of the Claim of Right adopted by the last General Assembly of the said Church, and their refusal to give redress and protection against the jurisdiction assumed, and the coercion of late repeatedly attempted to be exercised over the courts of the Church in matters spiritual by the civil courts, have recognized and fixed the conditions of the Church Establishment, as henceforward to subsist in Scotland, to be such as these have been pronounced and declared by the said civil courts in their several recent decisions, in regard to matters spiritual and ecclesiastical, whereby it has been held, *inter alia*—

1st, That the courts of the Church by law established, and members thereof, are liable to be coerced by the civil courts in the exercise of their spiritual functions; and in particular, in the admission to the office of the holy ministry, and the constitution of the pastoral relation, and that they are subject to be compelled to intrude ministers on reclaiming congregations in opposition to the fundamental principles of the Church, and their views of the Word of God, and to the liberties of Christ's people.

2d, That the said civil courts have power to interfere with and interdict the preaching of the gospel and administration of ordinances as authorized and enjoined by the Church courts of the Establishment.

3d, That the said civil courts have power to suspend spiritual censures pronounced by the Church courts of the Establishment against ministers and probationers of the Church, and to interdict their execution as to spiritual effects, functions, and privileges.

4th, That the said civil courts have power to reduce and set aside the sentences of the Church courts of the Establishment, deposing ministers from the office of the holy ministry, and depriving probationers of their license to preach the gospel, with reference to the spiritual status, functions, and privileges of such ministers and probationers,—restoring them to the spiritual office and status, of which the Church courts had deprived them.

5th, That the said civil courts have power to determine on the right to sit as members of the supreme and other judicatories of the Church by law established, and to issue interdicts against sitting and voting therein, irrespective of the judgment and determination of the said judicatories.

6th, That the said civil courts have power to supersede the majority of a Church court of the Establishment, in regard to the exercise of its spiritual functions as a Church court, and to authorize the minority to exercise the said functions, in opposition to the court itself, and to the superior judicatories of the Establishment.

7th, That the said civil courts have power to stay processes of discipline pending before courts of the Church by law established, and to interdict such courts from proceeding therein.

8th, That no pastor of a congregation can be admitted into the Church courts of the Establishment, and allowed to rule, as well as to teach, agreeably to the institution of the office by the Head of the Church, nor to sit in any of the judicatories of the Church, inferior or supreme, and that no additional provision can be made for the exercise of spiritual discipline among the members of the Church, though not affecting any patrimonial interests, and no alteration introduced in the state of pastoral superintendence and spiritual discipline in any parish without the sanction of a civil court.

All which jurisdiction and power on the part of the said civil courts severally above specified, whatever proceeding may have given occasion to its exercise, is, in our opinion, in itself inconsistent with Christian liberty,—and with the authority which the Head of the Church hath conferred on the Church alone.

And further, considering that a General Assembly, composed in accordance with the laws and fundamental principles of the Church, in part of commissioners themselves admitted without the sanction of the civil court, or chosen by Presbyteries, composed in part of members not having that sanction, cannot be constituted as an Assembly of the Establishment without disregarding the law and the legal conditions of the same as now fixed and declared;

And further, considering that such commissions as aforesaid would, as members of an Assembly of the Establishment, be liable to be interdicted from exercising their functions, and to be subjected to civil coercion at the instance of any individual having interest who might apply to the civil courts for that purpose;

And considering further, that civil coercion has already been in divers instances applied for and used, whereby certain commissioners returned to the Assembly this day appointed to have been holden, have been interdicted from claiming their seats and from sitting and voting therein, and certain Presbyteries have been, by interdicts directed against their members, prevented from freely choosing commissioners to the said Assembly, whereby the freedom of such Assembly, and the liberty of election thereto, has been forcibly obstructed and taken away;

And further, considering that, in these circumstances, a Free Assembly of the Church of Scotland, by law established, cannot at this time be holden, and that an Assembly, in accordance with the fundamental principles of the Church, cannot be constituted in connection with the State without violating the condi-

tions which must now, since the rejection by the Legislature of the Church's Claim of Right, be held to be the conditions of the Establishment.

And considering that, while heretofore as members of Church judicatories ratified by law and recognized by the constitution of the kingdom, we held ourselves entitled and bound to exercise and maintain the jurisdiction vested in these judicatories with the sanction of the constitution, notwithstanding the decrees as to matters spiritual and ecclesiastical, of the civil courts, because we could not see that the State had required submission thereto as a condition of the Establishment, but, on the contrary, were satisfied that the State, by the acts of the parliament of Scotland, for ever and unalterably secured to this nation by the Treaty of Union, had repudiated any power in the civil courts to pronounce such decrees, we are now constrained to acknowledge it to be the mind and will of the State, as recently declared, that such submission should and does form a condition of the Establishment, and of the possession of the benefits thereof; and that as we cannot, without committing what we believe to be sin—in opposition to God's law—in disregard of the honour and authority of Christ's crown, and in violation of our own solemn vows, comply with this condition, we cannot in conscience continue connected with, and retain the benefits of, any Establishment to which such condition is attached.

We, therefore, the ministers and elders aforesaid, on this, the first occasion since the rejection by the Legislature of the Church's Claim of Right, when the commissioners chosen from throughout the bounds of the Church to the General Assembly appointed to have been this day holden, are convened together, do protest, that the conditions foresaid, while we deem them contrary to and subversive of the settlement of Church government effected at the Revolution, and solemnly guaranteed by the Act of Security and Treaty of Union, are also at variance with God's word, in opposition to the doctrines and fundamental principles of the Church of Scotland, inconsistent with the freedom essential to the right constitution of a Church of Christ, and incompatible with the government which He, as the Head of his Church, hath therein appointed distinct from the civil magistrate.

And we further protest, that any Assembly constituted in submission to the conditions now declared to be law, and under the civil coercion which has been brought to bear in the election of commissioners to the Assembly this day appointed to have been holden, and on the commissioners chosen thereto, is not and shall not be deemed a free and lawful Assembly of the Church of Scotland, according to the original and fundamental principles thereof, and that the claim, declaration, and protest, of the General Assembly which convened at Edinburgh in May 1842, as the act of a free and lawful Assembly of the said Church, shall be holden as setting forth the true constitution of the said Church, and that the said claim, along with the laws of the Church now subsisting, shall in nowise be affected by whatsoever acts and proceedings of any Assembly constituted under the conditions now declared to be the law, and in submission to the coercion now imposed on the Establishment.

And, finally, while firmly asserting the right and duty of the civil magistrate to maintain and support an establishment of religion in accordance with God's word, and reserving to ourselves and our successors to strive by all lawful means, as opportunity shall, in God's good providence, be offered, to secure the performance of this duty agreeably to the Scriptures, and in implement of the statutes of the kingdom of Scotland, and the obligations of the Treaty of Union as understood by us and our ancestors, but acknowledging that we do not hold ourselves at liberty to retain the benefits of the Establishment while we cannot comply with the conditions now deemed to be thereto attached—we protest, that in the circumstances in which we are placed, it is and shall be lawful for us, and

such other commissioners chosen to the Assembly appointed to have been this day holden, as may concur with us, to withdraw to a separate place of meeting, for the purpose of taking steps for ourselves and all who adhere to us—maintaining with us the Confession of Faith and standards of the Church of Scotland, as heretofore understood—for separating, in an orderly way, from the Establishment; and thereupon adopting such measures as may be competent to us, in humble dependence on God's grace and the aid of the Holy Spirit, for the advancement of His glory, the extension of the gospel of our Lord and Saviour, and the administration of the affairs of Christ's house, according to His holy word; and we do now for the purpose foresaid withdraw accordingly, humbly and solemnly acknowledging the hand of the Lord in the things which have come upon us, because of our manifold sins, and the sins of this Church and nation; but, at the same time, with an assured conviction, that we are not responsible for any consequences that may follow from this our enforced separation from an Establishment which we loved and prized—through interference with conscience, the dishonour done to Christ's crown, and the rejection of His sole and supreme authority as King in His Church.

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